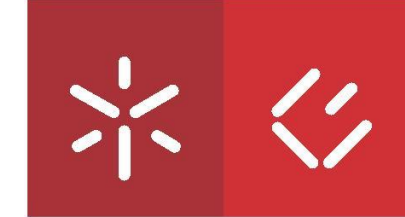


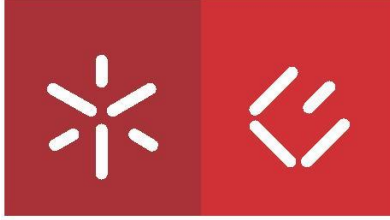


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of the changing role of Russia as EU's
natural gas supplier (1994-2019)**

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Universidade do Minho
Escola de Economia e Gestão





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Dissertação de Mestrado
Mestrado em Relações Internacionais

Trabalho efetuado sob a orientação da
Professora Doutora Alena Vysotskaya Guedes Vieira

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“A política (de segurança) energética da União Europeia perante o papel da Rússia enquanto fornecedor de gás natural (1994-2019)”

Resumo

O objetivo da seguinte dissertação é analisar como é que a União Europeia (UE) tem (re)formulado a sua política (de segurança) energética em relação à Rússia, sobretudo no que toca à esfera do gás natural. O estudo analisa a tentativa da UE desenvolver uma política (de segurança) energética comum e coerente que ao mesmo tempo seja capaz de reduzir a dependência da UE de importações de gás natural russo. A análise divide-se em quatro partes. Na primeira parte da análise é apresentado o papel da Rússia no setor do gás natural da UE, sendo argumentado que tal papel foi em primeiro lugar caracterizado pela hesitação de Moscovo em se comprometer com a Carta Energética Europeia nos anos 90, em segundo lugar pelas ‘crises do gás’ que aconteceram na Ucrânia e na Bielorrússia entre 2006 e 2010 e que afetaram as reservas de gás natural da UE e, em terceiro lugar, pelo impacto que os gasodutos Russos – Nord Stream, South Stream, e Nord Stream 2 – tiveram na segurança das reservas de gás natural da UE entre 2011 e 2019. Ao ter em conta o papel da Rússia no setor do gás natural da UE, na segunda parte da análise é apresentada a abordagem inicial da UE à sua política (de segurança) energética (1994-2003). Na terceira parte da análise é explorada a abordagem evolutiva da UE à sua política (de segurança) energética (2006-2014). Na quarta e última parte da dissertação é analisada a abordagem mais abrangente da UE à sua política (de segurança) energética (2014-2019). O estudo apresenta um quadro analítico inovador que combina, por um lado, uma abordagem que assenta na distinção dos três diferentes tipos de ‘poder’ da UE (poder normativo, regulador, e económico e de mercado), com, por outro lado, o nexó definido pelas teorias de integração da UE de supranacionalismo e intergovernamentalismo. Ao adotar o quadro metodológico das narrativas analíticas, o estudo baseia-se na análise de documentos oficiais da UE, literatura secundária especializada, assim como na análise de entrevistas realizadas durante um ano e meio de trabalho do autor num *think-tank* localizado na ‘bolha de Bruxelas’. A aplicação do quadro analítico escolhido à política (de segurança) energética da UE permitiu concluir que a abordagem inicial da UE foi caracterizada pela utilização de um ‘poder normativo’ (1994-2003), a seguinte abordagem evolutiva da UE caracterizada pela utilização de um ‘poder regulador’ (2006-2014), e a última abordagem a ser analisada, a abordagem mais abrangente da UE, caracterizada pela utilização de um ‘poder económico e de mercado’ (2014-2019). Finalmente, foi concluído que a UE assumiu uma abordagem dupla que foi transversal às três diferentes fases de formulação da sua política (de segurança)

energética. Esta abordagem dupla foi caracterizada, por um lado, pela ambição da Comissão Europeia e de alguns estados-membros em transportarem o processo político da EU, no quadro da energia, para a arena mais supranacional e, por outro, pela tentativa de outros estados-membros, liderados pela Alemanha, defenderem a centralidade da lógica intergovernamental que continua a caracterizar o atual processo político da UE no quadro da energia.

Palavras-chave: Política de (segurança) energética da União Europeia; Política externa Russa; Gás natural; Comissão Europeia; Estados-membros da União Europeia

“EU energy (security) policy in the context of the changing role of Russia as EU’s natural gas supplier (1994-2019)”

Abstract

The aim of this dissertation is to analyze how the European Union has (re)formulated its energy (security) policy in relation to Russia, by focusing especially on the sphere of natural gas. The study analyzes the EU’s attempt to build a common and coherent energy (security) policy while aiming to reduce its dependence from Russian natural gas imports. The analysis consists of four parts. In the first part of the analysis, we present the role of Russia in the EU’s gas sector, arguing that it has been first characterized by Moscow’s reluctance to commit to the European Energy Charter in the 1990s, second by the ‘gas wars’ that took place in Ukraine and Belarus from 2006 to 2010 and that affected the EU’s natural gas supplies, and third by the impact of Russia’s pipeline projects – Nord Stream, South Stream, and Nord Stream 2, from 2011 to 2019 – in the security of the EU’s natural gas supplies. By taking into account the changing role of Russia in the EU’s natural gas sector, in the second part of the analysis, we present the EU’s initial approach to its energy (security) policy (1994-2003). In the third part of the analysis, we present the EU’s changing approach to its energy (security) policy (2006-2014). In the fourth and final part of the dissertation, we analyze the EU’s comprehensive approach to its energy (security) policy (2014-2019). Adopting the methodological framework of analytic narratives, the study investigates EU official documents (including EU legislation and treaties), specialized secondary literature, as well as interviews conducted by the author in Brussels, in addition to his insights from one and a half years of work experience in one of the leading think-tanks located in the ‘Brussels bubble’. The study puts forward an innovative analytical framework that combines, on the one hand, an approach that identifies the EU’s three different types of power (normative, regulatory, and economic and market power) and, on the one hand, the nexus defined by the EU integration theories of supranationalism *versus* intergovernmentalism. The application of this approach to the EU’s energy (security) policy allowed us to conclude the EU’s initial approach to be the one of the ‘normative power’, while the subsequent changing EU stance as corresponding to the ‘regulatory power’, and during the final period under analysis, the EU’s comprehensive approach associated with the EU behaviour as an ‘economic and market power’. Furthermore, we were able to conclude that transversally to the three different phases of the evolving EU energy (security) policy, the EU assumed a dual-take approach, which was characterized by the aspiration of the European Commission and some member-states to take energy policy-making to the supranational arena that evolved together with the

attempt by a few member-states, led by Germany, to maintain the intergovernmental logic that remains at the core of EU energy policy-making.

Key-words: Energy (security) policy of the European Union; Russian foreign policy; Natural gas; European Commission; Member-states of the European Union

List of abbreviations

ACER	Agency for Cooperation of Energy Regulators
Bcm	Billions of cubic meters
bn	Billion euros
BP	British Petroleum
BTC	Baku-Tbilisi-Ceyhan
Covid-19	Coronavirus disease of 2019
EaP	Eastern Partnership
EC	European Commission
ECSC	European Coal and Steel Community
ECT	European Energy Charter Treaty
ENP	European Neighbourhood Policy
ERGEG	European Regulators Group for Electricity and Gas
EU	European Union
EWM	Early Warning Mechanism
GMF	German Marshall Fund of the United States
IAI	Institute of International Affairs
IEA	International Energy Agency
ITGI	Interconnector Turkey-Greece-Italy
ITRE	Parliamentary Committee on Industry, Research and Energy
Km	Kilometers
LNG	Liquefied natural gas
m	Million euros
Mcm	Millions of cubic meters

MH17	Malaysian Airline Flight 17
NCs	Network codes
NRA	National Regulatory Authorities
OIES	Oxford Institute for Energy Studies
PEEREA	Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects
SCP	South Caucasus gas pipeline
SEA	Single European Act
SGC	Southern gas corridor
SWP	German Institute for International and Security Affairs
TANAP	Trans-Anatolian pipeline
TAP	Trans-Adriatic pipeline
TEN-E	Trans-European Network Energy Guidelines
TEP	Third Energy Package
TEU/ TFEU	Treaty of the European Union
TPA	Third-party access
TSOs	Transmission system operators
U.S./ USA	United States of America
USSR	Union of Soviet Socialist Republics
WTO	World Trade Organization

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Introduction

1. Why study EU energy (security) policy?

The present dissertation intends to answer the following research question: “how has the European Union (re)formulated its energy (security) policy while faced with the changing Russian role in the EU’s natural gas sector (1994-2019)?”. The development of the EU’s energy (security) policy will be analyzed against the backdrop of the dominant Russian position in the EU’s natural gas market and how it has been used as a political weapon by Moscow towards the EU and its member-states, therefore shaping the development of the EU’s energy (security) policy (Krutikhin, 2021).

According to the *Encyclopedia of Energy*, ‘Energy Policy’ is a subset of economic policy, foreign policy, and national and international security policy that seeks security of supply, affordability, and limited impact on the environment (Kohl, 2004). Nevertheless, according to the *Routledge Handbook of Energy Security*, the attention of policy-makers, when formulating energy policies, has been first and foremost directed at security of supply. This has happened because states have increasingly been subject to supply crises, which has made them vulnerable to external pressures, as it has been the case of many European states (von Hippel, Suzuki, Williams, Savage, & Hayes, 2010). Accordingly, since the 1970’s oil crisis – which have caused supply disruptions all over the world, including in Europe – European studies focusing on energy started being mostly conducted in a political economy framework focused on guaranteeing security of supply (Jakstas, 2019). Moreover, new energy disputes that appeared in the beginning of the 21st century and that have posed additional risks to states’ security of supply, have led the term of ‘energy security’ to become not just related with guaranteeing continuous and affordable supplies, but also with guaranteeing the security of the entire energy system (Fernandes 2019). As such, the European Energy security Strategy, put forward by the European Commission in 2014 made a distinction between short-term energy security and medium- and long-term energy security (European Commission, 2014). According to it, short term energy security refers to the capacity of the energy system to resist shocks and interruptions to the supplying of energy sources. On the other hand, medium- and long-term energy security refers to the capacity of implementing measures to promote the reduction of the dependence on fossil fuels, energy suppliers, and energy routes, as well as achieving a more functional and integrated energy market (Fernandes, 2019). One can conclude that an energy policy has been always, to some extent, an energy security policy. As a reflection of this, the term ‘energy security’ has frequently dominated the EU energy debate since its

emergence in the 1970's (Siddi, 2016), and this tendency continues until today (more recently, the term has been used interchangeably with 'EU external energy policy', which has been intertwined with the notions of EU's security of supply, reduction of dependence on fossil fuels, energy suppliers, and energy routes). More generally, energy security has been defined as an official goal of many countries, since an uninterrupted access to energy supplies is an inherent condition to a functional economy and a happy population, especially in the last decades, due to the robust world economic expansion, population growth, and the increasing awareness that the energy resources required to power these needs are finite (Ayoo, 2020).

Avoiding supply disruptions, reducing dependence on fossil fuels, energy suppliers, and energy routes has therefore been the main objective of the energy policies of the world nations, and of many international organizations, as in the case of the European Union. As such, the EU's energy (security) policy has, since its emergence, given huge importance to the dimensions of energy security that seek uninterrupted energy flows, reduced dependence on fossil fuels and diversification of routes and suppliers, and that is why the focus of the present dissertation is not the EU's energy policy (corresponding to an inward-oriented approach, often underpinned by an economic analysis), but rather about the EU's energy (security) policy (von Hippel, Suzuki, Williams, Savage, & Hayes, 2010). Moreover, the debate surrounding the term EU energy security, both in academia and at the EU policy-making level, has frequently corresponded, in its shape and focus, with EU dependency on natural gas imports from Russia (Ayoo, 2020; Russel, 2020); in addition to the more recent emphasis on the EU dependency on other energy sources such as crude oil, or of the EU's capacity to import LNG, or to produce renewables, as well as on EU relations with other important energy trading partners, such as Iran, the United States, Saudi Arabia, Norway, and others (Bahgat, 2010; Al-Shalabi, Cottret, & Menichetti, 2014; Conley, Ladislav & Hudson, 2015; European Parliament, 2016). Nevertheless, the EU's dependency on natural gas, EU-Russia gas trade relations, supply disruptions in Ukraine and Belarus, and Gazprom's monopolistic domain of the EU's gas market, are the main discussions surrounding the EU's energy security (Ayoo, 2020; Russel, 2020) and, therefore, they are precisely what this dissertation's analysis to the EU's energy (security) policy is going to be looking at.

The EU is the world's biggest energy importer. The fraction of imported natural gas, in the EU's overall energy consumption, has dramatically increased during the last decades. However, this trend took an unexpected turn in December 2019 due to the Covid-19 crisis. Since this period onwards, think tanks that focus most of their research on natural gas, as it is the case of the *Natural Gas programme of the*

Oxford Institute for Energy Studies, have argued that during the year of 2020, Gazprom's pipeline supplies going to Europe have fallen down by 16% as a result of the pandemic, which has led to an intense reduction of the debate surrounding the EU's energy (security) in the gas sector, as well as the Russian role in it (Stern & Fulwood, 2020).

Moreover, from December 2019 onwards, the EU's political agenda became completely dominated by discussions surrounding the Covid-19 crisis. For instance, today, one year later after the pandemic started, discussions led by the current Portuguese Presidency of the Council of the European Union have continuously focused on planning the post-Covid 19 world (Dennison, 2020).

This, together with the reduction in gas supplies flowing from Russia towards Europe since the beginning of 2020 until now, are the reasons why the empirical analysis of this dissertation is limited to December 2019.

Nonetheless, natural gas is still a critically important energy source and thus deserves continuous academic attention: it is the second most required source of energy within the EU (right after crude oil), and the trend is that its demand further increases (Helén, 2010; Fernandes & Camacho, 2019). According to the International Energy Agency (IEA) in 2019, while the EU's own gas production is declining, the EU will have to seek additional natural gas imports of 162 billion of cubic meters (bcm) by 2025 to cover up to one-third of its anticipated consumption. At the same time, Russia is well placed to remain the primary source of gas into Europe (Zeniewski, 2019).

Indeed, the biggest supplier of natural gas to the European Union is Russia. From the total amount of natural gas that the EU imported in 2019, 44.7 % came from Russia, and in 2020, 30.3% came from Russia too, being that 22 to 28% of that same gas is consumed directly by EU member-states. Contrarily to oil, natural gas is extremely difficult to be transported in tanks and, as such, the most efficient way to transport it is through pipelines (Eurostat, 2020). The existence of pipelines underscores the importance of bilateral relations, as the two respective parties in question are necessary for point-to-point transactions in which the same amount of gas at the entry point of the pipeline needs to be the same at the end point. As a result, most of the time, natural gas markets present a bilateral character, being that in the EU case, the natural gas supplied from Russia circulates mainly through Gazprom's pipelines (Fernandes & Camacho, 2019).

Since the beginning of the 90's, the EU has recognized the volatility of its energy market and its high dependence on Russian natural gas. To counter this trend, the EU has publicly shown its will to develop the European continent's energy security, affirming that an energy (security) policy and an integrated energy market could promote diversification of the EU's natural gas supplying sources and a consequent greater independence from the Russian market. During the 70's, the EU started developing strategies that promoted energy cooperation at the national level; however, the beginning of the most significant progresses towards an energy convergence at the European level started in the 90's (Herranz-Surrallés, 2017).

The idea of an energy strategy at the European level was reinforced through the political agendas of the Earth Summit¹, in Rio de Janeiro (1992), and the Kyoto Protocol² (1997). However, it was only in 2007 that the EU member-states decided to legally commit themselves to establish coordinated activities regarding the development of energy policies – a commitment that was brought by the Comprehensive Energy Action Plan, which underlined:

“[...] the implementation of the necessary legislation for the creation of an internal electricity and gas market; the need to contribute to security of supply, in the event of an energy supply crisis, by diversifying energy sources and transport routes; and the development of an EU common approach to external energy policy by intensifying energy relations with strategically important regions” (Council of the European Union, 2007).

In 2009, the Lisbon Treaty accredited the EU with the necessary competences to be able to legislate and adopt legally binding acts in the domain of energy (security) policy (Biesenbender, 2015). And it is since then that the EU has been fostering the integration of EU member-states in an EU-lead energy

¹During the Earth Summit, the United Nations member-states recognized the need to redirect international and national plans and policies to ensure that all economic decisions fully took into account any environmental impact. The summit produced results; it made eco-efficiency a guiding principle for business and governments alike and thus underlined the need to develop alternative sources of energy that could replace the use of fossil fuels that are linked to global climate change (United Nations, 1997);

²The Kyoto Protocol was an international agreement with the objective with the aim to reduce carbon dioxide emissions and other greenhouse gases. The protocol was based on the principle of common but differentiated responsibilities – it acknowledged that individual countries have the responsibility to combat climate change and reduce emissions. This agreement points out the danger of the excessive use of fossil fuels (United Nations, 2019).

(security) policy framework – which has been done with the creation of new diplomatic instruments that serve the objective of increasing the security of supply of natural gas (Herranz-Surrallés, 2017).

Therefore, the following research intends to analyze how the EU has been (re)formulating its energy (security) policy in the field of natural gas – a resource that is essential for the security of the EU member-states – before a Russian government that presents enormous challenges to cooperating with the EU on the trading of the resource (as a way to maintain its market dominant position).

The relevance of the following research that analyses the EU's energy (security) policy in the field of natural gas, stems from the central role of the latter to the EU and the implications of its shortages. After Russia's cut-off of the gas supply to Ukraine in 2006, EU energy (security) policy became a highly important debate in both the policymaking circles, as well as in the academic fields of European Studies and International Relations, and among the population of the EU overall. Since the 1970's until actuality, the EU member-states had not ever suffered any interruption to their access to natural gas. This trend changed during the winter of 2006, when the dispute between Ukraine and Russia led to a disruption that affected the natural gas supplies of Hungary, Austria, Slovakia, Romania, France and Poland. Such an event demonstrated how dependent the EU was on a single source of gas, from Russia, and on a single transit route, from Ukraine (Maltby, 2013, p. 438). By showing how vulnerable the EU security of supplies could be, this gas disruption demonstrated the need for a strong common European energy (security) policy.

According to an analysis performed by the European Parliamentary Research Service, around half of the EU citizens would like the EU to play a bigger role and to intervene more in energy supply and security than it does currently. The same study stipulates that a more physically and economically integrated market would be able to generate annual gains of €250 billion (Wilson & Dobрева, 2019). In addition, energy related expenditure is spread across different parts of the EU budget, which demonstrates how important the control of energy resources is for the EU's economy. In this regard, energy has been established as one of the main priorities of the European Union (European Commission, 2020).

The following argumentation leads us to believe that a common energy (security) policy has a high economic potential for both the EU and its member-states. However, this potential is admittedly underused due to a high dependency on Russian gas (European Parliament, 2017). Analyzing how the

EU has developed its energy (security) policy under conditions of high market dependence will allow to draw considerations about the best future strategy, looking to answer to how the EU can guide itself through conditions of natural gas scarcity or increase of prices, which may lead to a reduction of its dependence and to a strengthening of the market.

Finally, as the EU energy (security) policy tends to react to the challenges imposed by Russia to the EU's natural gas market, understanding how the EU has formulated its energy (security) policy and how it has positioned itself, also allows for an insight into the complex Russian external energy policy towards the EU (Proedrou, 2012; Szulecki, 2018). Russian energy policy, often described as a purely geopolitical strategy (Favennec, 2011), something reflected in the special treatment of Gazprom by Moscow, has not abstained from the use of weaponized interdependence, a condition under which Russia uses energy as a way to maximize its presence in the global economy and in the global politics arena (Korteweg, 2018; Krutikhin, 2021). However, it is too simplistic to look at Russia's energy policy from a geopolitical perspective only, since it also is determined by market and economic ambitions (Romanova, 2016). Moscow has used legal and technocratic instruments to promote its market presence and to mainly deal with one of the last rounds of EU's energy market legislation – mostly known as the third energy package – which conditions Gazprom's activity in the EU's natural gas market and, therefore, the company's capacity of generating revenue through its monopolistic position in the EU's energy market (Goldthau, 2015; Romanova, 2016). By looking at the complex Russian energy policy towards the EU's natural gas market, the following study will allow a better understanding of how the EU has formulated its energy (security) policy.

2. Literature Review

When analyzing the state of the art of the contemporary energy (security) policy of the EU, it is possible to distinguish several literature streams, which correspond to different disciplinary areas, ranging from European Studies (Natorski & Surrallés, 2009; Maltby, 2013; Jegen, 2014) and including European Law (Proedrou, 2012; Bochkarev, 2019; Hancher & Marhold, 2019), Energy Studies, as well as the International Political Economy perspective (Kirchner & Berk, 2010; Goldthau & Sitter, 2015; Prontera, 2017), to environmental studies (Götz, 2018; Szulecki, 2018); and International Relations (Stern, 2006; Westphal, 2009), predominantly from the perspective of EU-Russia relations (Romanova, 2016; Siddi, 2020), and Securitization (Wolczuk, 2016; Heinrich, 2017; Szulecki, 2018; Godzimirski & Nowak, 2018).

While some authors working on the intersection of European Studies and European Union Law/Energy Studies that have analyzed EU energy (security) policy have placed an emphasis on the internal market aspect of it (Maltby, 2013), others have focused on its external dimension (Stern, Pirani, & Yafimava, 2015), and yet others have emphasized its environmental dimension (Szulecki, 2018). Authors have also paid attention to the evolution of this policy from the international political economy perspective (Prontera, 2017), as well as to the impact of specific events on both the development of EU's internal energy market (Jegen, 2014), and on the external dimension of the EU's energy (security) policy (Pointvogl, 2009; Braun, 2011; Goldthau & Sitter, 2015).

Contributions focusing on the turning points of the evolution of the EU's internal market, include the studies of Oana Poiana on the European Energy Community (2006), of Michal Naturski & Anna Herranz-Surrallés on the First Strategic Review (2007), and of Maya Jegen on the Lisbon Treaty (2009). As for the contributions identifying turning points in the development of the external dimension of the EU's energy (security) policy, these are, for instance, the studies of Matteo Verda on the Second Strategic Energy Review (2008), which saw the EU proposing its own gas corridor to diversify supplying sources, and of Jonathan Stern, Simon Pirani, and Katja Yafimava on the Third Energy Package (2009), which defined new rules for third countries' companies and pipelines accessing the EU's gas market. There is also a specific sub-stream focusing on the events that were critical to the objective of incorporating environmental concerns into the EU's energy (security) policy, including the contributions of Kacper Szulecki on the Energy Union (2015), or of Martin Russel on the Green Deal (2019). Also, in the field of European Studies and Energy Studies, some authors have placed an emphasis on the international political economy of energy, as we already mentioned. Thus, Andreas Goldthau, Nick Sitter, and Andrea Prontera have discussed that the EU has sought to shape the international political economy of gas not by pursuing its own economic interests, but by building an EU energy market constituted by rules and regulations that are attractive to global energy players. Furthermore, these authors also have also ascertained that the EU has been managing the international political economy of gas through the use of its economic power – a strategy that is based on the application of economic power, as for example financial investment, in order to support the European natural gas industry due to its economic and political importance to Europe.

2.1. European Studies

2.1.1. Contributions in the field of environment studies

The largest share of the most recent literature on European Studies corresponds to the sub-stream of environment studies. Representative of this sub-stream is the contribution of Kacper Szulecki and Julia Kuszniir, which has focused on the importance of transiting to cleaner energy, while arguing that this process is associated with the process of promoting security of the European energy sector. The widely referred concept of 'Energy Transition' is thus underpinned by the idea of renewables as the technology of the future and as an important complement to natural gas (Szulecki & Kuszniir, 2018). Thus, authors like Marco Siddi, while placing an emphasis on the 'green turn', have been more specific in explaining the latter's role in reducing the EU's dependence on Russian gas. Accordingly, the author has argued that investment in renewable energy, coupled with investments in energy efficiency, can be an innovative and climate-friendly way of reducing external dependencies (Siddi, 2016).

2.1.2. Energy studies literature

Another big share of literature of European Studies has focused on the sub-stream of energy studies that is associated with the process of European integration in the energy sector. Here, Michal Natorki and Anna Herranz-Surrallés have discussed the different ways in which the EU has been trying to develop its energy (security) policy, against the background of the EU's dependence from Russia. These authors have extensively written about how the EU has been using energy diplomacy tools to promote its authority and regulatory capacity in the energy sector. In this regard, they have, for example, analysed the European Neighborhood Policy, presenting the new EU partners as new opportunities for the EU's energy security (Herranz-Surrallés, 2017).

Most authors from the European Studies stream (including the sub-stream of Energy Studies) as Thomas Maltby, or Andreas Goldthau, or Nick Sitter, have frequently highlighted an idea that is central to the EU's energy (security) policy: on the one hand, there is a supranational role that the European Commission has assumed to develop the EU's energy (security) policy, while that on the other hand, there is an intergovernmental logic that many times remains at the core of EU energy policy-making (Maltby, 2013; Goldthau & Sitter, 2015).

Similarly, Michal Natorski & Anna Herranz-Surrallés, have argued that although the European Commission struggles to create an integrated European energy market, the interest of some member-states to maintain their national sovereignty over at least some of the energy issues has made it difficult for the EU to work towards a common European energy (security) policy. This approach shaped the development of a European energy (security) policy in the 1990's and today it is still taking place, they argue (Natorski & Surrallés, 2009). While the European Commission has pushed to include hydrocarbons in the process of European Integration and to have a certain degree of sovereignty over states when it comes to decision-making on energy issues, the member states prefer to protect their sovereignty and safeguard their national energy interests, they add. This approach has been blocking the development of a common EU energy (security) policy (Natorski & Surrallés, 2009). This divergence of perspectives falls under the supranationalism *versus* intergovernmentalism debate and is essential to understand discussions surrounding sovereignty in the European Union when it comes to EU treaties and decision-making procedures (Nugent, 2003). The exploration of this debate will be fundamental for the understanding of the argument that supports this thesis.

Maya Jegen has also published relevant work on the European Studies' sub-stream of Energy Studies. Her contribution is particularly important since it provides an historical overview of the process of European integration and how the concept of energy security emerged and started being associated with the concepts of 'energy dependence' and 'diversification of sources'. She argues that with the oil crisis of 1973, the European Communities were able to really start working towards the development of a true European energy (security) policy in the field of hydrocarbons. The oil crisis of 1973 revealed how dependent member-states of the European Community were of foreign energy sources, she adds. As a result, she notes, the crisis led to a growing intergovernmental cooperation that had the objective of finding ways for oil-consuming countries to deal with common short- and long-term energy problems. This intergovernmental cooperation resulted in the creation of the International Energy Agency in 1974. Simultaneously, it was also with the oil crisis that "diversification started to be used as a key-work for increasing energy security", she concludes (Jegen, 2014, p. 6).

Despite the progress achieved in the aftermath of the oil crisis, the author remarks that after it and throughout the 1980's, the European energy (security) policy only focused on the "reduction of oil imports from unstable producing countries", as the member-states of the European Community kept maintaining control over their national energy sectors and the IEA blocked a wider role for the European

Commission (Jegen, 2014, p. 6). Besides, all the progress the European energy strategy was achieving was based on non-legally binding guidelines and recommendations (Jegen, 2014).

John Surrey has published relevant work on the European Studies sub-stream of Energy Studies too. The author has deeply analyzed the process of European integration in the energy sector. Surrey argues that the Single European Act (SEA) (1986) changed this non-legally binding direction the European energy strategy was taking. The SEA internal market reforms extended European Community rules into public and quasi-public energy industries, with the objective of banning member-states' subsidies or business practices in the energy sector that could affect competition, he notes. Besides, the SEA pretended to reduce greenhouse gas emissions and reaffirm "Europe's renewed concern for long-term oil and gas supply security after the Gulf War and the disintegration of the Union of Soviet Socialist Republics (USSR) (Surrey, 1992, p. 208).

Two years later the Single European Market proposal was published. According to Surrey, this was an extension of the SEA that did not have the objective of formulating a European Community energy (security) policy, but rather formulate a wider policy that could promote trade and competition in the European energy market. The SEM market reforms had, however, some weaknesses, he notes: while they promoted increased competition between member-states, that did not mean, for example, low cost natural gas in the internal market because imported energy remained expensive and subject to disruptions, and energy-intensive users were exempted of some energy/ carbon taxes. Besides, some member-states were opposed to some of the measures with the objective to safeguard national energy interests. Germany, for example, was opposed to third-party access to gas and electricity transmission systems (Surrey, 1992).

Despite these weaknesses, the SEA was very positive and the now European Union had grown strong enough to produce and adopt directives pushing for the integration of energy markets, in particular in the field of electricity and natural gas (Natorski & Herranz-Surrallés, 2009).

2.1.3. Energy law literature

As such, it is from this point onwards that many authors started studying the European Studies' sub-stream of European energy law. For instance, Leigh Hancher & Anna Marhold have argued that the first liberalization directive, born from the First Energy Package, and adopted in 1998 in the gas field, was very important for the process of European integration in the energy sector. With it, they argue, the

European Union and the member-states committed to gradually open monopolized gas markets to competition. By doing so, the EU was taking steps towards the creation of an integrated energy market that would be more focused on the transit of natural gas and electricity through European networks. However, the most important achievements these directives brought was a common legal commitment between EU member states to incorporate EU energy legislation into their systems (Hancher & Marhold, 2019).

In this sub-stream, it shall also be noted that Filippou Proedrou has produced extensive research, as well as Michal Natorski & Anna Herranz-Surrallés. According to them, the process towards integration of the EU markets continued with the reforms introduced in the beginning of the 2000's and it was throughout this period that the scope of the European energy (security) policy debate was enlarged to embrace external security aspects related to gas supplies, and environmental concerns (placing an emphasis on renewables and energy efficiency) (Natorski & Herranz-Surrallés; 2009, Proedrou, 2012).

Despite all the progress achieved during the 1990's, Proedrou has argued that the European Commission's insistence was not able to introduce several other important energy aspects inside the scope of European integration. In this regard, Michal Natorski & Anna Herranz-Surrallés state that:

" [...] the European Commission had already proposed the inclusion of an entire chapter in the Treaty of the European Union (TEU) on a 'Common Energy Policy', pursuing the following objectives: security of supply in the EU; the stability of the energy market; progress towards the internal energy market; adoption of measures to be taken for all energy sources in the event of a crisis; and a high degree of environmental protection" (Natorski & Herranz-Surrallés, 2009, p. 73).

However, the inclusion of this chapter in the TFEU was rejected by the member-states and according to all the above-mentioned authors, even nowadays it is not possible to talk about a common EU energy (security) policy and much less about an external dimension of it (Natorski & Herranz-Surrallés; 2009 Proedrou, 2012).

Considering what was said above, it can be concluded that although the European Commission struggled to create an integrated European energy market, the interest of some member-states to maintain their national sovereignty over some energy issues has made it difficult for the EU to work towards a common EU energy (security) policy. This EU approach shaped the development of an EU

energy (security) policy in the 1990's and has been doing so until today. While the European Commission pushes to include hydrocarbons in the process of European Integration and to have a certain degree of sovereignty over states when it comes to decision-making on energy issues, the member states prefer to protect their sovereignty and safeguard their national energy interests (Maltby, 2013).

This dynamic has taken some scholars to produce literature on the European Studies' sub-streams of EU law and energy studies that focus on the role that some specific events had on the development of a common EU energy (security) policy (Pointvogl, 2009; Favennec, 2011; Braun, 2011).

For instance, Andreas Pointvogl and Jan Frederik Braun have deeply analyzed these kinds of events. Pointvogl has focused on the European Commission's attempt to bring its member states together to define a common approach to the EU's energy (security) policy. According to him, although the European Coal and Steel Community (ECSC) and the Euratom represented an attempt to create an integrated approach, it was only after the creation of the European Energy Charter treaty that European Commission-led attempts to promote integration of member-states with the EU energy framework became more visible (Pointvogl, 2009).

Other authors, as Jean-Pierre Favennec, have argued that in 2005, the publication of the Green Book represented a visible attempt to promote integration as its main objective was to promote energy efficiency in Europe by involving as many players in the energy business as possible and mobilize them in its support (Favennec, 2011).

Jan Frederik Braun, in his turn, has argued that in 2009, the Lisbon Treaty also attempted to promote integration by slightly enforcing solidarity mechanisms between member-states. But more important than this, Braun argues, the Lisbon Treaty represented a great step in the strengthening of the external dimension of the EU's energy (security) policy as it created new institutional actors that could now further the EU's energy cooperation and dialogue with non-EU countries and regions (Braun, 2011).

Also, in 2009, an important initiative that promoted integration entered into force – the Third Energy Package. According to Michal Glowacki, an expert in law, the package represented a legislative initiative with the objective to further liberalize and integrate Europe's energy markets by pursuing the objectives of completing the EU's internal energy market dimension, and of developing regulatory mechanisms to deal with third countries, like Russia (Glowacki, 2019). The Third Energy Package alongside with the

Green Book and the Lisbon Treaty, have been presented by these authors as stepping stones in the development of the EU's energy (security) policy.

Thomas Maltby, who produced an important contribution in the stream of European Studies and energy studies, as we could already see, also discussed in depth the importance of events like the above-mentioned. According to him, they represent not only an attempt of the European Commission to promote integration among member-states in the European energy sector, but also an attempt to move governance of the energy sector from the intergovernmental to the EU supranational arena. This attempt from the European Commission to promote a more supranational governance of the energy sector arises from an interest to hold agenda-setting, representational and implementation powers in energy policy-making (Maltby, 2013).

2.2. International Relations

2.2.1 Contributions in the field of EU-Russia energy relations

In the field of International Relations, many studies of the EU's energy (security) policy have been conducted by scholars working in the sub-stream of EU-Russia energy relations. In this regard, Tatiana Romanova and Marco Siddi have agreed that one does not study the EU's energy (security) policy in the gas sector without looking at Russia. According to them, as well as to Jonas Grätz (2019) and Carla Fernandes (2019), natural gas is one of the main pillars of EU-Russia relations. Russia is the main provider of gas to the EU, and the EU's growing demand of it, plus Russia's desire to capitalize on its gas producing potential, has created a relation of mutual interdependence (Grätz, 2019; Fernandes, 2019). Carla Fernandes describes this relationship of mutual interdependence as a "two-way street": on the one hand, the EU needs the security of supply provided by the abundant Russian gas supplies and, on the other hand, Russia needs the security of having access to the EU's gas market (Fernandes, 2019).

Furthermore, Marco Siddi has argued that this relation of mutual interdependence has evolved during years and resulted in both parts taking different paths. According to him, while the EU supports a liberalized European energy market based on access to different natural gas suppliers, Russia supports a European energy market that is dominated by Gazprom (Siddi, 2020).

According to Tatiana Romanova, Marco Siddi, and Jonas Grätz, EU-Russia gas relations have deteriorated particularly after the Russian gas cut-offs to Ukraine in 2006 and 2009 (Romanova, 2013; Grätz, 2019; Siddi, 2020). These crisis and their impact on the EU's energy (security) policy have been tremendous and, as such, there is a whole sub-stream of International Relations on securitization that studies them³.

Many authors that have studied EU-Russia energy relations have pointed out the fact that in order to understand them we should also look at Russia-Ukraine energy relations, or even EU-Ukraine relations, as they are intertwined: when Russia's state-owned gas company Gazprom decided to block gas transit through Ukraine during the crisis, it did not only create major challenges to the EU and its member states, but also to Ukraine's state-owned gas company, Naftogaz⁴ (Bildt, Schmitt, Westphal, Yuriy & Paul, 2019; Freire, 2019).

Marco Siddi and Tatiana Romanova have further argued that by being an energy-poor state and extremely dependent on Russian hydrocarbons, Ukraine has suffered a lot, politically and economically. Thus, Ukraine's strategic interests in the energy sector have aimed at increasing cooperation with the EU with the objective of minimizing the political and economic consequences of being dependent on the Russian gas. By incorporating EU recommendations and adopting EU rules, Ukraine can reform its energy sector, integrate it in the EU's, and gradually become less dependent on Russia, they have argued. Yet, Ukrainian ruling-elites often have contradictory preferences regarding increasing cooperation with the EU and Russia (Romanova, 2016; Siddi, 2018). According to Karatyna Wolczuk, while on the one hand, Ukraine has publicly shown support for greater economic integration with the EU and has advocated a path to membership, on the other hand, the country has done little to lower its gas dependence on Russia and did not reform its energy sector in order to reduce Russia's leverage until 2016 (Wolczuk, 2016, p. 114).

³This sub-stream will be later explored, and for now the focus will be on the state of the art of the International relations' sub-stream on EU-Russia relations.

⁴Naftogaz is a reliable transit partner of the EU that never failed to deliver on its contracts, as opposed to Gazprom, which has halted supplies of natural gas to Europe on several occasions.

Information retrieved from a policy dialogue at the European Policy Centre in Brussels, on March 5, 2019, entitled: "The future of Ukraine's gas transit route and European energy security". The speakers were: Carl Bildt, Former Minister of Foreign Affairs of Sweden, Benjamin Schmitt, European Energy Security Advisor at the U.S. Department of State, Kirsten Westphal, Senior Associate at SWP and Yuriy Vitrenko, Chief Operating Officer of Naftogaz. Amanda Paul, Senior Policy Analyst at the European Policy Centre further moderated the discussion. The dissertation's author participated in the discussion as an employee of the German Marshall Fund of the United States.

Karatyna Wolczuk, who produced extensive literature on the energy (security) policy of the EU and mostly approached it from a securitization perspective, made an important contribution in what regards EU-Ukraine energy relations. Wolczuk has shown that Ukraine is not only a strategically important energy partner of the EU (this is also the case of other post-Soviet countries that participate in the European Neighborhood Policy (ENP) and in the Eastern Partnership (EaP), namely Azerbaijan, Armenia, Belarus, Georgia and Moldova). These countries, as well as Ukraine, are energy-poor and "their asymmetric energy interdependence with Russia is compounded by a pipeline network and location of refineries that are completely structured around supplies from Russia" (Wolczuk, 2016, p. 114). Thus, Russia's interest in these countries lies in perpetuating their energy dependence, not only because of the revenues Russia will get from exports, but also because of the political leverage this provides over those countries and the EU itself. At the same time, she argues, the EU's interest in these countries lies in the promotion of security of supplies, routes diversification, market principles, and energy efficiency, which allows these countries (as they are an important component of the EU's energy market), and the EU itself, to lower their dependence on Russian energy (Wolczuk, 2016).

Alternatively, some authors see a window of opportunity in EU-Russia energy relations. Tatiana Romanova, for instance, states that the political agenda and the legal and institutional conditions that regulate the EU-Russia energy relations have evolved significantly. Such a dynamic results from the fact that Brussels and Moscow have acted towards the creation of an energy cooperation agenda that is based in a strategic planning of the European energy market. This cooperation has been promoted through the creation of transnational dialogue channels, she argues, which has contributed for a depoliticization of the issue. However, Romanova remarks that the legal aspect of this dialogue has been designed with a certain degree of procrastination, with Russia trying to maintain its dominant position at all costs⁵ (Romanova, 2013).

2.2.2 Contributions adopting the energy securitisation approach

Still in the stream of International Relations, there are some other authors who approached the EU energy (security) policy from the securitization perspective, as already mentioned above. In this regard, Andreas Heinrich has argued that the concept of 'energy security' became a core element of the EU's energy debate in 2006, reflecting the changes in the world energy system, and reaching the top of the

⁵Nonetheless, it must be noted that a very positive context of legal cooperation has gained form in the Baltic Sea.

EU's political agenda. This period was characterized by a conjunction of political and economic factors that were affecting the security of supply in many EU member-states. These political and economic factors were the result of the Russian-Ukrainian natural gas crisis and Russia's temporarily cutting the flow of energy supplies to Ukraine in 2006, thereby affecting some EU countries (Heinrich, 2017). In his turn, Marco Siddi has argued that this interruption of the flow of energy supplies was a move of political instrumentalization of energy resources, aimed at achieving Russia's foreign policy objectives. Nevertheless, both authors have noted that this cut-off did not have a true impact on any EU member-state in terms of their immediate energy consumption, but rather in triggering concerns within the EU about the consequences that another potential disruption of energy supplies could bring to its consumers, economic prosperity and political security. In parallel, one cannot forget another conjunction of events that EU representatives have been already alerting for as 'serious risks': fast growing global demand for energy, increasing dependence on imports from unstable regions, rising energy prices and global warming (Siddi, 2018).

Furthermore, on the sub-stream of energy securitisation, Stephanie C. Hofmann and Ueli Staeger have argued that after the 2006 disruption, the European Commission and some member-states engaged in repeated collective securitisation moves of the EU's energy (security) policy directed in particular at Russian gas exports to the EU (Hofmann & Staeger, 2018).

Also, Thomas Maltby, who, as we have seen, focus most of his research on the stream of European Studies, has made in them many important remarks regarding securitisation of the EU's energy (security) policy. According to him, what really changed the way EU member states see Russia as a partner was the serious disruption in gas supplies that occurred in January 2009. At that point, negotiations between Russia and Ukraine failed and, as a result, the Russian government cut natural gas supplies from flowing to Ukraine. The gas disruption lasted for 20 days, with the Czech Republic, Poland, Hungary, Romania, Bulgaria, and Slovakia suffering gas supply reductions (ranging between 5 and 30 per cent). This disruption was seen by many experts as a 'wake-up call' to the EU member-states for the need to reduce their dependence on Russian natural gas, the author argues (Maltby, 2013).

As a result of the 2006 and 2009 energy crisis, a new dynamic arose:

“[...] the European Commission responded by continuing to advocate a community internal and external energy policy, and this exogenous shock proved a catalyst for top-down pressure on policy units to formulate policies specifically related to addressing the issue of energy security” (Maltby, 2013, p. 438).

Andreas Heinrich and Kacper Szulecki have argued that after the 2006 and 2009 crisis – which have contributed to the securitization of the energy debate in the EU – a significant progress has been registered, not only in terms of reinforcing the EU's energy security (with regard to access and supply of natural gas), but also in terms of reducing the number of member-states that depend solely on Russia as a natural gas supplier. Moreover, some progress was also accomplished in the reinforcement of European energy infrastructure and in finding new possible suppliers (Heinrich, 2017; Szulecki, 2018)

Furthermore, Alan Riley, which we have interpreted to approach the EU' energy (security) policy from the securitisation perspective too, has argued that the 2006 and 2009 energy crisis have shown the EU how difficult it was to rely on Russia as a trustworthy energy supplier and on Ukraine as a transit country. Additionally, Riley has highlighted that Ukraine is one of the most strategically important gas routes into the EU as it transports gas from the EU's main supplier and as it is able to transport huge amounts of it (Riley, 2019).

2.3. Literature concerning Nord Stream and Nord Stream 2

Due to the above-mentioned EU fears in relying on Russia as a trustworthy supplier and on Ukraine as a transit country, the idea of the EU diversifying its transit routes gained a lot of traction within the EU energy security debate. That is how the Russian Nord Stream pipeline emerged as an alternative that, according to Henry Helén, Maria Raquel Freire and Roland Götz, would bypass the politically unstable Ukraine and give Russia an opportunity to show the EU that if it was not dependent on Ukraine's transit system, then Russia could be a trustworthy supplier of natural gas (Helén, 2010; Götz, 2018; Freire, 2019). Nord Stream actually became such an important route for the EU's gas system that there is a whole section of literature – ranging from European Studies to International Relations – dedicating its attention to it (Balzer, 2011; Värk, Nutt, & Martin, 2011; Stern, Pirani, & Yafimava, 2015; Fischer, 2017; Heinrich, 2017; Götz, 2018; Günther, 2019).

It has been noted that in almost all streams of literature that analyze Nord Stream, the geography of the pipeline has been particularly highlighted⁶ (Helén, 2010; Värk, Nutt, & Martin, 2011; Heinrich, 2017). Common to all streams of literature that study the pipeline is also the argument of its important economics⁷ (Helén, 2010; Balzer, 2011; Värk, Nutt, & Martin, 2011; Stern, Pirani, & Yafimava, 2015; Heinrich, 2017).

With the creation of this project, Heinrich argues, Germany intended to satisfy its growing gas demand. He has also noted that the efficiency of Nord Stream in satisfying such demand became evident between 1980 and 2007, when German imports on Russian-supplied natural gas had a remarkable increase of 25%, making Germany the biggest export market for Russian gas exports. However, it is worrying that, taking into account that Germany does not maintain a strategic gas reserve, Nord Stream made it vulnerable to disruptions in supply (Heinrich, 2017).

Finally, it has been noted that the discussions about the pipeline have mostly taken place on the sub-stream of EU energy law (Stern, Pirani, & Yafimava, 2015; Fischer, 2017; Götz, 2018; Günther, 2019). According to this sub-stream, while geopolitical considerations still influence the debate about Nord Stream, in the EU, the topic has shifted to a much more legal discussion about how the EU can manage the pipeline through energy market regulation (Stern, Pirani, & Yafimava, 2015; Fischer, 2017). For instance, several contribution address how the EU has used the third energy package's third-party access and unbundling requirements to manage the pipeline to its own political interest, or how Gazprom has reacted to these requirements in order to safeguard its interests in the European gas market (Stern, Pirani, & Yafimava, 2015; Heinrich, 2017).

Authors of the same sub-stream have also dedicated themselves to analyzing the impact of the subsequent Nord Stream 2 on the EU's energy (security) policy (Fischer, 2017; Götz, 2018; Günther, 2019).

⁶According to it, Nord Stream runs from Vyborg, Russia, to Lubmin, Germany, crossing the Baltic Sea and the Exclusive Economic Zones of Russia, Finland, Sweden, Denmark and Germany, as well as the territorial waters of Russia, Denmark and Germany (Helén, 2010; Värk, Nutt, & Martin, 2011).

⁷It has been noted that the 1200-kilometre pipeline is one of the most expensive projects of its kind and is the result of a joint venture between Gazprom, which controls 51% of the shares, the German Wintershall Dea and E.ON, with a 15.5% share each, and the Dutch Gasunie and the French Engie with a 9% share each. The pipeline pumps annually about 55 bcm of gas to Germany and other EU countries, and in 2018 the total volumes of gas deliveries to Germany amounted 58.5 bcm (Helén, 2010, p. 28; Heinrich, 2017).

According to Roland Götz (2018), this pipeline, which follows the exact same route as Nord Stream, is part of the Russian strategy to increase the capacity of its Baltic Sea pipelines in order to reach Europe with lower prices and more gas. He further argues that this route will allow Russia to maintain itself almost totally independent of Ukraine's energy transit monopoly, and to deepen its energy trade with Germany and the EU (Götz, 2018). Nevertheless, most authors discussing it, have argued that the construction of the pipeline has raised many concerns for the international community because of the negative impact that it will have for the EU's energy security and for Europe's environment. In this regard, it has been deeply highlighted that Nord Stream 2 will deepen the EU's dependence on natural gas and, although the EU and many member-states are aware of it, the commercial interest of some member-states like Germany, France, or the Netherlands in the execution of the project has been determinant in moving it forward (Fischer, 2017; Götz, 2018; Günther, 2019). Indeed, although Nord Stream 2 has been sanctioned by the EU and the US, most academic literature discussing it already accepts it as a future reality of the EU energy market, arguing that in the EU's political agenda, the question is no longer whether the construction of the pipeline should be stopped, but rather how the EU will use energy market regulation to manage it after its construction (Fischer, 2017; Götz, 2018; Günther, 2019).

As we can see, Russia-Germany energy relations are intertwined with the Nord Stream and Nord Stream 2 debate and the impact it has on the EU's energy (security) policy. As such, many authors that have approached the EU's energy (security) policy from the perspective of EU-Russia relations have regularly studied the role of the two pipelines and placed special emphasis on Germany-Russia relations (Helén, 2010; Proedrou, 2012; Siddi, 2020). Marco Siddi, for instance, has argued that the close Russo-German energy relations result from strong mutual economic interests (Siddi, 2020),

Furthermore, Filippou Proedrou has explored this issue by arguing that not only Germany, but also France and the Netherlands have huge national corporate interests associated with the activities of both pipelines in European waters⁸. According to him, Russian natural gas is supplied to Germany, and then to France and the Netherlands, under Gazprom export's contracts with the national companies of these member-states, as for example, in Germany's case, Uniper which is Gazprom's oldest partner on the German market (Proedrou, 2012).

⁸The German Wintershall Dea and E.ON are Gazprom's biggest foreign shareholders and have been granted access to the Russian energy sector, where only a few other western companies operate, namely Dutch Gasunie and the French Engie (Proedrou, 2012).

Henry Helén and Filippou Proedrou have noted that due to its interest in the Russian energy sector, Germany has, during the last decades, shaped the EU's energy (security) policy towards Russia (Helén, 2010; Proedrou, 2012). Helén has further noted that at the core of German interests in the Russian energy sector, are the activities of Uniper. Through close relations with Gazprom, the German Uniper has direct access to Russian energy resources and thus strengthens its positions domestically and internationally as the trader of Russian supplied gas. Finally, Proedrou has stated that at the core of Russian interests in the German energy sector, lies Gazprom's interests to, through Nord Stream, ensure Germany's dependence of Russian gas and secure close economic and political cooperation between the two countries. But most importantly, according to Henry Helén, Nord Stream:

“[...] rids the EU bound Russian gas of its dependence on transit countries, with which, as has been discussed, Russia has variably volatile relations. A direct pipeline connecting Germany and Russia also decreases, to an extent, the importance of the transit countries to the EU, as gas will flow regardless of potential strained relations between these and Russia” (Helén, 2010, p. 28).

Moreover, Helén has noted that by avoiding the Eastern European energy transit system, Gazprom's Nord Stream enables Russia to affect the energy security of Belarus and Ukraine, therefore altering the geopolitical environment of the EU's eastern region, the author adds. Nord Stream can also affect the energy security of other EU member-states such as Poland and the Baltics as it will surely favor gas volumes transited through its system instead of the Polish or the Baltic ones. It follows that by undermining energy cooperation between Western and Eastern Europe, Moscow is, through Nord Stream, able to compromise the EU's efforts to develop a common energy (security) policy (Helén, 2010, p. 29).

In light of this, other authors, as for example Tolga Demiryol, have argued that Germany's national energy interests diverge from those of the EU member-states who are dependent on Russian natural gas, because contrarily to Germany and other major importers, these states do not have bargaining power. Demiryol explains this market dynamic by stating the following:

“Countries with larger natural gas imports have an advantage that energy-dependent countries with smaller markets lack: bargaining power vis-à-vis suppliers. By the sheer size of their markets, energy consumers like Germany can negotiate on prices and contractual terms,

whereas the smaller yet energy-dependent economies in the Baltics and Central Europe do not possess comparable bargaining power” (Demiryol, 2014, p. 59).

Thomas Maltby has also been vocal about what Nord Stream represents for the process of European integration. This author, who has produced extensive literature for the European Studies’ stream and Energy Studies’ sub-stream, tells us that the national interests of countries like Germany over Nord Stream mirrors the predominance of an intergovernmental logic over a supranational one when it is time for energy policy-making in the EU. Maltby has argued that the decision of some EU member-states (most pronouncedly Germany) to have this pipeline developed, as we could already see, shows that when it is time for decision-making in EU energy (security) policy, member-states preferences within the EU prevail, as well as member-states’ security and economic interests over EU objectives of diversification of supply sources (Maltby, 2013, p. 442).

As we can see, the stream of literature that studies Nord Stream and Nord Stream 2 has often intertwined with different European Studies’ sub-stream of Energy Studies, and even with the International Relations’ sub-streams of securitization and EU-Russia relations.

2.4. International Political Economy

On this intersection of different currents of literature, authors like Andrey Belyi have argued that the EU’s attempt to develop ties with other regions has been subject of interest of several scholars, as it represents one of the main strategies the organization has adopted to demarcate itself from its growing dependence of Russian gas and to shape the international political economy of energy to its own favor. The European Energy Charter (1991) and its ratifying treaty (1994) are a good example of this EU attempt to demarcate itself from Russia, but also of the Russian try to boycott this EU-led process, he notes. The European Energy Charter intended to integrate the Russian and Eastern European energy sectors into the European energy market after the Cold War. The Charter had as its basis the establishment of a relationship of multilateral cooperation and dialogue. However, Belyi clarifies that Russia did not ratify the Treaty, as Gazprom was convinced doing so would make the company lose control over the European energy market. This because the freedom of energy transit established by the treaty involved the access of central Asia energy producers to the European market, which could possibly result in Gazprom losing control of it (Belyi, 2009).

Derek Averre has argued that although some Baltic, Central and Eastern European countries do not have the same interest and bargaining power as Germany, they are regarded by both the EU and Russia as strategically important regions from the geopolitical and the energy infrastructure point of view. As such, according to Averre, Russia has, at all costs, tried to maximize its structural power in its shared neighborhood with the EU in order to influence and shape the way in which it is perceived externally. In other words, a strategic control of the shared neighborhood – which possesses a great potential for energy production and transit – allows Russia to have a key role in the production and transport of natural gas to the EU, therefore limiting the organization's external capabilities. And here, Averre has highlighted that all the demographic, social and economic legacy that Russia shares with its Eastern neighbours grants Moscow a strategic advantage when interacting and developing relations with these countries. However, he notes that these relations have been put at stake due to an increasing engagement of the EU with this region in what regards the creation of bilateral energy security relations (Averre, 2009).

Andrea Prontera, approaching the EU's energy (security) policy from the European Studies and International Political Economy perspective, has argued that engagement with other countries that can offer the EU added value in the field of natural gas is becoming an increasingly common strategy. According to him, not only the EU has been putting in place efforts to enlarge its internal energy market to Eastern Europe, but also to third countries that can help the EU demarcate itself from the growing Russian pressure (Prontera, 2017). Prontera and Heiko Prange-Gstöhl have further argued that integration in the European energy market interests, above all, to third countries with no or only a vague membership perspective – essentially, candidate countries to whom the EU cannot fully apply the “conditionality” approach; countries that integrate the European Neighborhood Policy are a good example (Prange-Gstöhl, 2009; Prontera, 2017). These contributions are often drawing on Europeanisation and International Political Economy studies, by investigating the countries that aim at deeper integration with the EU because, among other reasons, they want to benefit from economic exchange with the organization without having to be subject to the same legislation as member countries. Anyways, if these countries want to integrate the European energy market, they must be subject to EU's energy legislation, Prange-Gstöhl argues. In this regard, the EU has, for example, used the Energy Community Treaty to export its energy norms and regulations (Prange-Gstöhl, 2009).

Moreover, authors from the sub-stream on the international political economy of energy have also discussed the process of European integration. According to Emil Kirchner and Can Berk, the existence

of asymmetries in the energy preferences of different EU member-states makes the involvement of the European Commission in the international political economy of energy very complicated. While it is expected that national preferences will keep shaping the EU's energy (security) policy, at the same time factors such as the liberalization of energy markets, the importance given to a common energy (security) policy, efforts to introduce a super grid of power supplies across the EU, and the spin-off from environmental policy keeps gradually promoting the development of a common energy (security) policy within the EU. Thus, it can also be argued that the growing desire for energy security between member-states might change the culture of fragmentation between EU member-states towards energy (security) policy (Kirchner & Berk, 2010,).

2.5. Concluding remarks

After analyzing the current state of the art, it could be concluded that the culture of fragmentation between EU member-states is a topic that has been transversal to most streams and sub-streams studying EU energy (security) policy. As such, understanding this culture of fragmentation has been essential for the purpose of this dissertation.

Against the background of the reviewed state of the art, this dissertation will try to provide an answer to its research question by, on the one hand, assessing the EU's approach (based on the engagement and cooperation with different actors) that allows to demarcate itself from its dependence on Russian gas, which necessarily implies mitigating the aforementioned fragmentation; and by, on the other hand, assessing Russia's own evolving approach (based on the engagement and cooperation with specific actors within the EU, such as Germany, rather than the EU itself) to this EU attempt to demarcate itself through its energy (security) policy. This is to say, the (re)formulation of the EU's energy (security) policy will be studied by keeping in mind Russia's evolving role in the EU's natural gas sector and how the EU reacted to it.

Ultimately, this dissertation will try to answer this research question by using an analytical framework based, on the one hand, on the use of Goldthau and Sitter's idea of the EU's three different types of power in the development of its energy (security) policy: normative, regulatory, and economic and market power; and on the other hand, on the use of the supranationalism *versus* intergovernmentalism debate, eventually revealing the EU's dual take-approach that is transversal to the whole development of the EU's energy (security) policy (independently of the type of the power that the EU is using).

The two following ideas will be kept in mind: (1) the progress achieved in the development of the internal and external dimensions of the EU's energy (security) policy was achieved due to an external actor and external events – Russia and a series of events that were triggered by Russia. Furthermore, (2) when these external 'windows of opportunity'⁹ appear and the EU must react, it reacts by acting either as a normative, regulatory, or economic and market power – a reaction that is always shaped by a dual-take approach.

3. Analytical Framework: conceptualizing EU energy (security) policy

3.1. EU (Normative, Regulatory, Economic and Market) Power

While there are multiple approaches to EU energy security, it is possible to distinguish three different perspectives that characterize the way in which the EU has promoted its energy (security) policy (Natorski & Surrallés, 2009; Pointvogl, 2009; Kirchner & Berk, 2010; Proedrou, 2012; Maltby, 2013; Jegen, 2014; Szulecki, 2018; Siddi, 2020). These ideas have been discussed in detail by several authors, as demonstrated above. However, Andreas Goldthau and Nick Sitter have been especially successful in systematizing their relevance to the EU's energy (security) policy.

According to them, three different perspectives on EU energy security are intertwined with three different types of 'power' that the EU applies when formulating its energy (security) policy. These three different 'powers' are the 'EU Normative Power', the 'EU Regulatory Power', and the 'EU Economic and Market Power' (Goldthau & Sitter, 2019).

Accordingly, the first of the dimensions distinguished by the two authors is the EU Normative Power, which refers to the capacity of the EU to build and manage markets. This first type of EU power is neutral as to the specific interests of the EU in the energy sector *vs* those of its main trading partners. This means that when the EU formulates its energy (security) policy, it is not pursuing its own economic interests, but rather building rules and regulations that are intended to be attractive to energy-oriented global players, as it is the case of Russia (Sjursen, 2006). According to Goldthau and

⁹The expression 'windows of opportunity' was retrieved from Michael Natorski & Anna Herranz-Surrallés' article: "Securitizing Moves To Nowhere? The Framing of the European Union Energy Policy", *Journal of Contemporary European Research*, Vol. 4, No. 2, pp. 74. According to the authors, 'windows of opportunity' refer to opportunities to develop the European Energy Policy that were brought about by external events such as disruptions to the security of energy supply of some European countries.

Sitter, EU attempts to develop regulatory regimes that can serve as models for global, regional, or national energy governance are examples of this (Goldthau & Sitter, 2019, p. 3).

As for the second type of the EU power ascertained by the two authors, it corresponds to the EU Regulatory Power. The latter involves a strategy in which the EU uses regulation to build and manage markets in a way that favors itself. In the case of gas, this means putting in place a regime that generates benefits for the consumer, which means the EU (Matthes, 2004). The EU does this through a 'conditionality' strategy that is based on the EU requiring third actors to adapt and adhere to the EU's regulations in case they want to export to Europe (Goldthau & Sitter, 2019).

Finally, the third type of power distinguished by the authors is the EU Economic Power. This type of power can, according to Goldthau and Sitter, be a different thing from the EU Market Power. However, both follow a common trend: these kinds of power, contrary to the previous ones, represent an EU strategy to apply its economic power and regulatory rules in a selective way (Goldthau & Sitter, 2019, p. 8). This means that when the EU applies these powers, it uses forms of economic or market power to influence the behavior of another state, or a firm, to its benefit (Damro, 2012).

While on the one hand, the normative *versus* regulatory *versus* economic and market power debate describes the three different ways in which the EU has exerted leadership in the development of its energy (security) policy from 1994 to 2019, on the other hand, the supranationalism *versus* intergovernmentalism debate – that will be essential to characterize the EU's dual-take approach – describes the internal political trend that shapes the development of the EU energy (security) policy, independently of the kind of power that the EU is using to promote it.

As such, the normative *versus* regulatory *versus* economic and market power of the EU will be regarded as approaches whose predominance may change over time, taking into account the EU's attitude and strategy towards energy policy-making. In its turn, dual-take approach, which results from the analysis (below) of the EU's supranationalism *versus* intergovernmentalism debate, will be considered a constant internal political trend underlying the development of the EU's energy (security) policy. Moreover, this trend is always present, independently of the mode and period in which the EU is developing its energy (security) policy.

3.2. Supranationalism versus Intergovernmentalism

The supranationalism-intergovernmentalism debate is at the heart of discussions surrounding the evolution of the European Union and is essential to understand the determinants of EU integration processes (University of Portsmouth, 2013).

Intergovernmentalism is, according to Nugent (2003), a set of arrangements “whereby nation states, in situations and conditions they can control, cooperate with one another on matters of common interest” (Nugent, 2003, p. 475). This means that, within the EU framework, states are usually free to cooperate or not, depending on their willingness (Nugent, 2003).

On the other hand, supranationalism refers to governance arrangements in which states decide to delegate decision-making responsibilities to a body or a decision-making process that the states choose to stand above them. Here, states lose the right to veto and agree to be bound by the decisions made by the majority. In some cases, under these circumstances, states must follow a policy that contravenes their national preferences (Nugent, 2003).

The development of the EU’s energy (security) policy fits into this debate. According to Kirsten Westphal, intergovernmentalism implies a prevalence of national approaches to energy policy and this is, for example, enshrined in the Article 194 of the Lisbon Treaty, according to which member-states have a major say in energy politics. Furthermore, analysts focusing on intergovernmentalism tell us that intergovernmental agreements on energy matters often result “in compromises based on the last common denominator”, as for example, agreeing on energy production or climate targets, rather than on concrete energy pathways (Westphal, 2020, p. 434).

In its turn, supranationalism emphasizes a functional logic arising from an integrated European gas market, which is moderated by the European Commission, successively resulting in a harmonization of national energy policies (Westphal, 2020, p. 435).

This dichotomy highly characterizes the current rationale of the EU’s energy (security) policy, especially after the Lisbon Treaty made it a shared competence between member-states and the European Union. Although it gave the EU some competences in terms of managing the European energy market and improving the environment, at the same time, member-states retained their sovereignty right to decide

about their own energy mixes. Ultimately, this had led to the EU's energy (security) policy being still dominated by national policies and individual interests of the member states (Westphal, 2020).

Furthermore, nowadays the EU still has insufficient competences in terms of energy policy-making: the EU lacks the competence to legislate on unional energetic matters. At the same time, in competition policies the EU has exclusive competences. Finally, in terms of the single energy market, legislative power is shared between the EU and the member-states (Nugent, 2003).

Much of this difference of competences is also related to the institutional setting of the EU. The Commission is the body that initiates EU energy law proposals (directives, regulations, and white papers) (Maltby, 2013; Westphal, 2020). Yet, this body has little influence on the final draft, or on secondary legislation. In effect, the Commission usually follows the lead of member-states when it comes, for example, to defining the legislation governing the EU's energy (security) policy's external dimension (Natorski & Surrallés, 2009).

This legislative process is carried out by the European Parliament and the Council of the European Union. The European Council, which is composed by the heads of state and governments, sets the overall direction of energy politics. At the Council, decisions are made, most of the time, unanimously. Nevertheless, states with the largest political influence within the EU usually have a greater role in guiding decisions on energy matters. This reflects, as Kirsten Westphal points out, that decisions on energy matters often reflect the most common denominator among the member states (Westphal, 2020, p. 442).

In its turn, the European Parliament has seen an increase in its role as the major co-legislative institution together with the Council, mainly due to the Lisbon Treaty. Decisions on energy matters at the Parliament are taken in line with personal convictions, rather than along political parties' lines. Still, the Parliamentary Committee on Industry, Research and Energy (ITRE) is central on most legislation connected to energy (Westphal, 2020, p. 442).

In the end, while the European Parliament's decisions are in line with the overall benefit of the EU, the Council's decisions are in line with the individual energy preferences of each member-state. In order to create a synergy for decision-making processes, trilogue negotiations between representatives of the Council, the European Parliament and the European Commission have taken place (Nugent, 2003; Westphal, 2020).

During these trilogue negotiations, a special kind of dynamic takes place. On the one hand, some individual member-states try to assume control of the formulation of the EU's energy (security) policy in order to safeguard their national interests, as is the case of Germany (Wedel, 2016). By using its right to veto under the EU's intergovernmental sphere, Germany sometimes blocks EU decisions that would directly affect the role of Gazprom and Russia in the European energy market. Germany does so with the objective of safeguarding its national commercial interests of cooperation with the Russian state-owned company (Wedel, 2016)

Eda Kusku explains that intergovernmentalism has a lot to say about this kind of behavior as the theory tells us that cooperation among member-states is only possible when their interests converge, which, sometimes, is not the case between Germany and other EU member-states in the energy field (Kusku, 2010). Furthermore, the author states that:

“From the viewpoint of intergovernmentalism, a collective EU stance towards the countries which export energy to Europe depend primarily on the benefits that a united attitude will provide to individual member states in the event of a crisis of energy supply” (Kusku, 2010, p. 145).

Therefore, it can be concluded that a united attitude would not provide any benefit to some EU member-states, as for example Germany, even in the event of a crisis of energy supply, as these states would be subject to collective decisions that could put at stake their individual interests and distinct webs of relations with Russia (Kusku, 2010).

On the other hand, the European Commission has been acting as a supranational actor and pushed forward respective policies. It has gained more authority on energy policy-making, especially on internal issues, and it has been trying to counterbalance the actions of countries like Germany by promoting a more integrated energy market that is able to demarcate itself from Russian influence (Birchfield, 2011).

This leads us to conclude that the EU's energy (security) policy is based on a dual-take approach that results in a difference of competences between the institutions of the European Union and between member-states themselves.

3.3. The proposed analytical framework and its added value

This dissertation seeks to bring an added value to the analysis of EU energy (security) policy by using an innovative analytical framework that is based, on the one hand, on the use of Goldthau and Sitter's idea of the EU using three different types of powers that correspond to three different phases of the development of the EU's energy (security) policy from 1994 to 2019, being these powers the normative, regulatory, and economic and market power. On the other hand, this innovative analytical framework applies the supranationalism *versus* intergovernmentalism debate in order to demonstrate the EU's dual take-approach that is transversal to the whole (re)formulation of its energy (security) policy, independently of the type of the power that the EU is using. This dual-take approach, we argue, will seek to provide an account of how the development of the EU's energy (security) policy results from two different approaches: one that is associated to an intergovernmental logic based on the prominence of the energy preferences of a few member-states, and another that is associated to a supranational logic based on the prominence of the preferences of the European Commission and some other member-states.

In the conclusion of this dissertation there is a table that reflects both the analytical approach developed above and its application to the development of the EU's energy (security) policy.

4. Methodological approach

For the purpose of this thesis' methodological approach, we position ourselves in foundationalist ontology allowing for causal relations between social phenomena and therefore reach an explanatory and predictive model of the EU's energy (security) policy (Marsh & Furlong, 2002). In terms of epistemology, the position is realist. In practice, it means that we will be looking at, on the one hand, how Russia's instrumentalization of energy through its foreign policy has caused an effect in the EU's energy (security) policy and led the EU to react by behaving as a normative, regulatory, and economic or market power. These reactions usually take the shape of regulations, treaties and policy-initiatives, but also of partnership agreements and of financial investment schemes directed at construction of the EU's own gas infrastructure (Goldthau & Sitter, 2019).

Nonetheless, it shall be noted that Russia's instrumentalization of energy through its foreign policy towards the EU is not the sole cause leading to an effect in the EU's energy (security) policy. Indeed, as we will be able to see in this dissertation's first chapter, from 1994 to 2003, not only increased

cooperation with Moscow had an effect, but also the oil crisis of the 1973, which showed how dependent member-states of the European Community were on foreign energy sources, which contributed for diversification and energy security to be used as key-words on the European energy debate (Jegen, 2014).

However, although casual relationships will be used to provide explanations of the EU's behaviour in the natural gas domain, one must note that direct observation will not be privileged as we believe that there are deep structural relations between EU-Russia energy relations – and also at the level of EU policy-making in energy – which cannot always be observed, but whose consequences we can see in the (re)formulation of the EU's energy (security) policy (Marsh & Furlong, 2002)

Taking what was mentioned above into account, we can conclude that by taking a realist ontological position, we will assume that the EU's energy (security) policy exists, independently of our knowledge of it, or even of any external causes that shape it.

Furthermore, we can also conclude that by taking a realist epistemological position, we will assume that knowledge about the EU's energy (security) policy can be produced not only by considering EU-Russia relations, Russia's foreign policy, and other external catalysts, but also by considering unobservable structures (Rynning, 2005).

Finally, by suggesting that the EU's energy (security) policy is a reality that despite being strongly shaped by EU-Russia relations and Russia's foreign policy, is also shaped by the inherent complexity of energy affairs, we acknowledge the utility of applying a qualitative methodology (Marsh & Furlong, 2002; Rynning, 2005).

In terms of external parameters, it will be taken as granted – and, thus, not analyzed or discussed – the Russian and the European Union stances in the international energy security domain:

1. The EU as a liberal and non-dominant actor that seeks to control the European energy market through multilateralism, integration and supranationalism;
2. Russia as a non-liberal and dominant actor that seeks to control the European energy market through Gazprom's monopolization strategy.

These are the conditions that we believe to be shared and permanent.

In terms of internal parameters, what is considered to be problematic and that, naturally, will be the object of study of the following dissertation is the way in which the EU has (re)formulated its energy (security) in relation to Russia's evolving role in its gas sector.

In terms of spatial framing, this dissertation analyzes the (re)formulation of the EU's energy (security) policy with regard to the transference of energy between Russia and the EU through Nord Stream, Nord Stream 2, and the Ukrainian and Belarusian transit systems.

In terms of data-collection, this dissertation used three main sources: primary sources, secondary sources, in-depth interviews and group debates. Regarding primary sources, we have mostly used official EU documents, as treaties (primary legislation), regulations, directives, and decisions (secondary legislation), as well as recommendations and opinions, and parliamentary debates. These sources were retrieved either from the Official Journal of the European Union, or from the official web site of the European Union. In order to interpret the above-mentioned primary sources, we have used several secondary sources. The main secondary sources were articles from scientific journals from the International Relations, European Studies and Political Science fields, most notably from *Energy Policy*, *European Energy Journal*, *Journal of European Public Policy*, *Journal of Energy & Natural Resources Law*, *Journal of Contemporary European Research*, *Eurasian Geography and Economics*, *Europe-Asia Studies*, *Journal of Common Market Studies*, and *International Comparative Jurisprudence*. Furthermore, we have used three academic contributions that provided very important insights, namely *Energy Security in Europe: Divergent Perceptions and Policy Challenges*, edited by Kacper Szulecki; *EU Energy Security in the Gas Sector: Evolving Dynamics, Policy Dilemmas and Prospects*, edited by Filippas Proedrou; *Russian Energy Security and Foreign Policy*, edited by Thomas Gomart and Adrian Dellecker; and finally the *Handbook of Energy Governance in Europe*, edited by Michèle Knodt and Jörg Kemmerzell. Additionally, it shall also be remarked that the articles and policy papers from some research centers and think tanks were also very relevant in terms of providing background information, namely the ones of the Oxford Institute for Energy Studies (OIES), the German Institute for International and Security Affairs (SWP), the German Marshall Fund of the United States (GMF), and the Institute of International Affairs (IAI). Finally, we have also conducted two anonymous interviews: one with a researcher from a Brussels-based think tank that focus on energy policy, and another with an Energy Official from the Permanent Representation of an EU member-states in Brussels. And, in addition, it must be noted that from February 2019 to July 2020, the author worked as a Program Assistant from the Brussels office of the German Marshall Fund of the United States. This professional experience was

of great relevance for the purpose of this dissertation as it gave the author the opportunity to exchange ideas with very experienced researchers on the field of EU energy (security) policy; it gave the author the opportunity to dialogue with experts, treated here as anonymous sources that were involved in the process of negotiation of the European Energy Charter; and it gave the author the opportunity to exchange ideas and obtain information about EU energy (security) policy on off-the-record roundtables with EU officials. This last opportunity has been particularly important, as there was a particular off-the-record roundtable that the author organized at the GMF office in Brussels on the 30th of May of 2019 that provided great insight for this dissertation's dual-take approach argument. This roundtable, entitled *"EU Energy Security in the Gas Sector"*, had the participation of relevant speakers: Professor Alena Vieira, the supervisor of this dissertation and an expert on EU-Russia relations, a EU Official from the Directorate-General of Energy, and a former US Diplomat.

This dissertation will apply the analytic narrative method, which refers to a method of study that has appeared at the boundaries of history, political science, and economics. This method purports to explain specific historical events by combining the usual narrative way of historians with the analytic tools that economists and political scientists apply. Essentially, and according to Bates, Greif, Levi, Rosenthal and Weingast, this method looks at philosophical and historical explanations (in this case of the evolution of the EU's energy (security) policy), and by checking their discursive consistency and narratologies, provides explanations (Bates, Greif, Levi, Rosenthal, & Weingast, 2000).

For instance, the distant history of EU integration has a lot to teach those who study contemporary European integration. This is precisely the central claim of Moravcsik in 1955, broadly referred to as an example of an analytical narrative approach. According to him, the history of European integration since 1955 has shown three main trends that are present today: patterns of commercial advantage, the stronger bargaining power of the most important EU governments, and the incentives to enhance credibility of interstate commitments (McClean, 2003).

We applied an argument that past historical trends of European integration have a lot to offer to contemporary studies of European integration. As such, we have noted alongside the analytical part of this dissertation that patterns of commercial advantage are, indeed, the main factors shaping the stance of some member-states (that have a commercial interest in their Nord Stream contracts with Gazprom), like Germany or France, towards the European Commission having a stronger voice in energy policy-making processes. We have noted that the stronger bargaining power of some EU

member-states, like Germany, France or Italy is the main driver of energy policy-making at the EU level, therefore contributing for a continued intergovernmental logic. Finally, we have also noted that the author's third historical trend of incentives to enhance credibility of interstate commitments can also be applied to this dissertation. This trend is present in modern day European integration in the energy sector if, for example, we look at how the Third Energy Package's unbundling and third-party access requirements have benefitted the commercial interests of some EU member-states towards Gazprom, which led them to end up committing to the Package's formulation and application.

5. Structure of the dissertation

The (re)formulation of the EU's energy (security) policy, in which the EU takes a dual-take approach, is divided, I argue, in three different phases: a 1st phase that goes from 1994 to 2003, when there was no external threat to energy supplies, in which the EU behaved as a normative power, a 2nd phase that goes from 2006 to 2014, in which the EU behaved as a regulatory power, a plan that came as a response to Russia-led energy disruptions in Europe, and a 3rd phase that goes from 2014 to December 2019, in which the EU behaved as an economic and market power, therefore adding a geopolitical dimension to its energy security strategy.

Between 1994 and 2003, there was not a need to rethink the EU's energy (security) policy because there had never been a threat to Europe's natural gas supplies. As such, the EU behaved as a normative power, a behavior that was characterized by the creation of the European Energy Charter Treaty (1994), the creation of the First Energy Package (1998), the initiation of the EU-Russia energy dialogue (1999), and the creation of the Second Energy Package (2003).

Between 2006 and 2014, when faced with the first energy supply challenges in Europe and a Russia that was firmly not willing to cooperate, it is argued that the EU behaved as a regulatory power, a behavior that was characterized by the creation of the European Energy Community (2006), the creation of a Green Paper for sustainable, competitive and secure energy (2006), the establishment of the Lisbon Treaty (2009), the launching of the First Strategic Energy Review or Energy Action Plan (2007) the establishment of the renovated Strong European Neighborhood Policy (2007), the launching of the Second Strategic Energy Review (2008), where the Southern Gas Corridor was proposed, the creation of the Lisbon Treaty (2009), the creation of the Third Energy Package (2009), and the establishment of the EU-Ukraine Association Agreement (2012-2013).

Finally, between 2014 and December 2019, the EU behaved as an economic and market power, a behavior that was characterized by the sanctioning of Russian and Ukrainian Individual Officials and Companies (2014), the creation of the Energy Union (2015), the cancellation of South Stream's conclusion (2014) and its replacement by the Turkish Stream Pipeline (2015), the amendment to the 2009 Gas Directive (2017), the creation of the Security of Gas Supply Regulation (2017), the opening of the Southern Gas Corridor (2018), the establishment and enhancement of new partnerships that included Turkey (2016), China (2017) and the United States (2018), and finally, the investment on new energy sources like LNG and renewables (2019).

Before these three different phases are analyzed, this dissertation dedicates its first chapter to analyzing the way through which the Russian challenge of cooperation has emerged and evolved from 1991 until 2019. Here, the emergence of this challenge is explained through how Russia has started playing its appointment to EU energy affairs from the European Energy Charter until the enlargement of the EU to some strategic countries. Furthermore, the evolution of this challenge is explained in three different phases. A first one that is characterized by the 'gas wars' between Russia and Ukraine and the precedent of the cut-off, a second one that is characterized by the Russia-Georgia energy dispute (2007-2008) and that marks the first energy war in the EU eastern neighborhood and the consolidation of Russia as EU's energy challenge, and a third one that focus on the construction of Nord Stream, South Stream and South Stream 2 as the last Russian strategy to increase its control over the EU natural gas market.

Chapter I: The Challenge of Russia's natural gas supply (1991-2019)

1.1. The Origins: from the European Energy Charter to the EU Enlargement (1991-2006)

In 1991, Russia signed one of the first milestone treaties of the EU's energy (security) policy, the European Energy Charter, a political declaration on the development of multilateral international cooperation in the energy sector that sought to "improve security of energy supply and maximise the efficiency of production, conversion, transportation, distribution and use of energy, to enhance safety and to minimise environmental problems, on an acceptable economic basis". Later, in 1994, Russia signed the Energy Charter Treaty (ECT) and the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects (PEEREA), a treaty and a protocol that defined the legal framework of the Energy Charter – and, as such, the legal obligations of its signatory members, as it was Russia. However, after the entering into force of the ECT, Russia started to use the possibility of the ECT's provisional application¹⁰. Besides having used the provisional application to not have to fully commit itself to the treaty, Moscow has also never ratified it (Pominova, 2014, p. 2). The Russian non-ratification of the ECT was a first sign of Moscow's approach to European energy security.

Although Russia never ratified the ECT, the country has always had a clear interest in participating and closely following the development of the European Energy Charter, as reflected by the signing of its subsequent treaty and protocol. Russia's interest in participating in the Charter was initially to get guidelines to develop market legislation in the energy sector, as well as to attract more investment and technology development opportunities much needed to restore the levels of gas production. European countries, in their turn, also had a clear interest in the Charter considering that one of its main objectives was to guarantee the stability of energy supplies going to western Europe and support market transformations in the Eastern front (Pominova, 2014, p. 5).

At the time of the first Parliamentary hearings on the ECT, in 1997, it was decided to suspend the possibility of Russia ratifying the treaty until the country acceded to the World Trade Organization (WTO). In 2012 Russia acceded to the WTO but did not ratify the ECT afterwards. Actually, Russia ended up withdrawing from it. Since then, a lot of arguments for and against Russia ratifying the treaty

¹⁰Article 45: Provisional Application: "(1) Each signatory agrees to apply this Treaty provisionally pending its entry into force for such signatory in accordance with Article 44, to the extent that such provisional application is not inconsistent with its constitution, laws or regulations."; "(3) (a) Any signatory may terminate its provisional application of this Treaty by written notification to the Depository of its intention not to become a Contracting Party to the Treaty." (International Energy Charter).

have been put forward and a lot of more attention has been paid to the arguments against the Russian ratification as doing so was much more in line with Moscow's energy policy interests (Boute, 2014).

Although participating in the ECT would have brought Russia a greater attraction of investments into its energy sector and protect Russian investments abroad, ratifying the ECT would also pose a series of risks to Russia. According to Irina Pominova, from the Energy Charter Secretariat, some of the main risks were: the ECT would require a third party to access the JSC Gazprom pipelines for cheap gas from central Asia; the ECT would prejudice JSC Gazprom with respect to its access to European pipelines and benefit European companies regarding their access to Russian pipelines; the ECT would sought to disrupt the system of long-term contracts for the supply of Russian gas to the European countries; the ECT would not cover submarine pipelines; the ECT would not contribute to the settlement of transit disputes between Russia and Ukraine; and finally, the ECT transparent transit rules and fair competition practices would have negative consequences for the Russian strategy in the European gas market (Pominova, 2014).

As such, one can conclude that Russia's decision not to ratify the ECT can be explained by Russia's perception of this treaty as a legal instrument primarily directed at guaranteeing the security of Europe's energy supply and reducing Russian influence over the European natural gas market (Boute, 2014). Furthermore, the ratification and implementation of the ECT's rules that were shown above would have resulted in greater competition in Russia's energy transportation sector and, thus, in losses for Gazprom's energy monopoly in Europe (Smith, 2006).

2.1. The 'gas crisis' between Russia and Ukraine and the precedent of the cut-off (2006-2010)

Indeed, Russia's non-ratification of the ECT was one of the first signs of what was going to be the Russian energy strategy to safeguard its dominant position over the EU natural gas market. However, the EU only started looking seriously at the risks stemming from dependency on Russian gas supplies after the cut-off of gas to Ukraine in 2006 (Smith, 2006).

2.1.1. The first Russia-Ukraine gas crisis (2006)

Although for many years now there has been an emerging need to manage the EU's energy (security) policy in a way that is transversal to all EU member states and that results in a collective and concise way of energy policy and decision-making, member states' national objectives and interests never

allowed this to happen. In truth, the advancements that have determined the development of the EU's energy (security) policy resulted, essentially, from external catalysts. Are clear examples of these catalysts the oil crisis of the 1970's, which resulted in disruptions of oil supplies from the Middle-East that created difficulties for many Western European nations that relied on energy exports from the region; the option to diversify and use energy resources that are less harmful for the environment in light of environmental pressures emerging from phenomena as global warming; but most importantly, the need to diversify natural gas supplying sources in light of a natural gas cut-off imposed by Russia to Ukraine in 2006 (Fânzeres, 2015, p. 32).

The EU is highly dependent on a source of gas, Russia, and on a transit route, through Ukraine, and until the completion of the first section of Nord Stream in 2011, all Russian gas exports to Europe transited through Ukraine, Belarus, and Moldova. In 2004, Gazprom exported around 150bcm of gas to 22 European countries, while the Russian gas represented almost 40% of Europe's total imports and 28% of the continent's demand. In this context, Ukraine held a pivotal geographical role with more than 80% of Russian gas to Europe being sent via Ukraine in 2004 (Maltby, 2013, p. 438).

The energy relations between Russia and Ukraine have never been easy and that is the first reason behind the 2006 energy crisis. During the 1990's, the Russian-Ukrainian gas relationship was characterized by a Ukrainian inability to pay for up to 50bcm of the gas it imported from Russia, which resulted in debt and unpaid bills which, in its turn, led to reduction of gas supplies to Ukraine for short periods of time to force the country to pay its debt, and to diversions in the gas volume delivered to Europe. However, in the Summer of 2004, the Russian government, Gazprom, and the Ukrainian government agreed that Central Asian gas, mostly from Turkmenistan, would be delivered to Ukraine and settlement of past debts were agreed. Moreover, Gazprom made a loan to Naftogaz which allowed it to pay past gas debts and to ensure 5 years of Turkmen gas deliveries to Ukraine and transit of Russian gas to Europe. With the agreement being put in place in late 2004, it seemed that all the requirements to (re)normalize the Russian-Ukrainian gas relation were again fulfilled (Stern, 2006, pp. 2-3).

However, in December 2004, the Russian-Ukrainian gas relation went down again as Turkmenistan requested a price increase from their Russian and Ukrainian counterparts. Russia and Ukraine hesitated, so on December 31 the Turkmen halted gas flows for both countries in order to force them to accept the demand. Ukraine gave up to Turkmen pressure and on January 3, 2005 gas flows

restarted at a higher price, as requested by the Turkmen. As a result, a joint venture called RosUkrEnergo, with the objective of shipping Turkmen gas to Ukraine and Russia, emerged. Nonetheless, Turkmen deliveries to Russia did not resume until May 2005. Moreover, between the first half of 2005 and October of the same year, Ukraine entered a series of confusing supply arrangements with Turkmenistan and Iran, leaving Russia uninvolved. To add one more layer to the problem, it was reported that in May 2005, 7.8bcm of gas which Gazprom had deposited in Ukrainian reservoirs had not been made available to Gazprom despite several requests. Some suggested that the gas was either missing, had disappeared, or was stolen by people. With this in mind, by July 2005, most of the conflictual elements of the Russian-Ukrainian gas relationship that had previously been restored, had reopened again. Unpredictably, by late 2005, world oil and gas prices reached a new height and CIS countries were paying 3 to 4 times less for Russian gas than the rest of Europe as a product of transit barter deals, and in order to recover some of the money it was losing, Gazprom demanded Ukraine to start paying “European prices” (Stern, 2006, p. 4).

Gazprom wanted Ukraine to pay €190.52 per 1000 cubic meters from the start of 2006, up from the current €41.42 suggesting that if Ukraine could not afford to pay this price, then the company could extend loans to Ukraine. Ukraine did not seem to like much this offer, so, in a final offer, Russian Prime Minister Vladimir Putin said:

“I instruct the government and Gazprom to ensure gas deliveries in the first quarter of 2006 with the conditions and rates of 2005, on the condition that before the end of today the Ukrainian partners sign the contract with Gazprom’s offer for switching to market prices in the second quarter” (Deutsche Welle/ Agence France-Presse, 2005).

Ukraine rejected the offer of Vladimir Putin and as a response, at 10.00am Moscow time, on January 1, 2006, Gazprom cut-off gas supplies to Ukraine (Maltby, 2013).

After 30 years of stable gas deliveries from Russia to the EU, the Russian cut-off to Ukraine led to a shortfall in supplies in several European countries: Hungary (40%), Austria, Slovakia, and Romania (33%), France (25-30%), Poland (14%) and Germany (with no further details being known with regards to this country). The impact of the Gazprom measure was immediate and impossible to overlook with EU countries reporting on January 1, 2006 that contractually agreed amounts of gas had not been delivered. Evidently, the non-deliveries resulted either because Ukrainian companies were diverting gas

from the pipelines, or because Gazprom failed to pump enough gas. However, considering Gazprom's concern about security of supply and its interests in the money it was going to earn with the exports to Europe, there was only one explanation – the gas was being withdrawn by Ukrainian customers. Naftogaz, in response, argued that the company had taken only Turkmen gas to which it believed itself entitled, rather than Russian gas in transit to Europe; many Ukrainian spokespersons suggested that Ukraine was entitled to take 15% of the gas crossing its territory in transit to Europe; or that it was entitled to take gas if the temperature dropped below -3°C. However, neither of these explanations were in respect of the agreed contracts (Maltby, 2013, pp. 438; Stern, 2006, pp. 8-9).

By January 4, Russian gas deliveries to Europe were back on track. In terms of the consequences of the disruption, no European country had to interrupt supplies to customers, luckily, because many industrial customers were closed due to the holiday season. Additionally, the European mild weather during that time also helped (Stern, 2006, p. 9).

The dispute came to an end thanks to a commercial agreement where Gazprom and Naftogaz signed a 5 year contract in which: Gazprom agreed to pay Naftogaz a tariff of €1.33/mcm/100km for transit of gas to Europe; RosUkrEnergo became the company delivering gas to Ukraine, with Gazprom not delivering any Russian gas to Ukraine, and Naftogaz not exporting any gas received from Russia to Europe; RosUkrEnergo and Naftogaz would form a joint venture by February 1, 2006 in order to market gas in Ukraine which has been received via Russia; RosUkrEnergo's annual gas balance consisted of up to 17bcm of Russian gas purchased from Gazprom with a base price of €190.52/mcm; and, in terms of sales, 34bcm of the gas was agreed to be sold by the joint venture (between RosUkrEnergo and Naftogaz) at €78.69/mcm during the first half of 2006 for the Ukrainian market without the right to re-export. The agreement clearly showed that many issues had not been solved, particularly the gas price issue (Stern, 2006, pp. 9-10)

After the conflict came to an end, European press was supporting Ukrainian President Yushchenko's position, informed by the idea that the dispute had political underpinning, with Russia attempting to blackmail Ukraine and unseat its leader by putting economic pressure on the country (Stern, 2006, p. 10)

With the cut-off, Russia also impacted the European asymmetries of interdependence with Ukraine. The dependence of Ukraine and Europe on fixed networks of transportation and on a single supplier,

Russia, raised many concerns about the consequences that disruptions to energy supplies would bring to consumers, economic prosperity, and political security (Kirchner & Berk, 2010)

Despite the gas cut-off not bringing any direct negative consequences to any EU member-state in terms of energy consumption, one must remark that it called the EU's attention to the role of energy as a vital security complement. In this regard, Edward C. Chow, Senior Associate for the Center for Strategic and International Studies, highlighted that:

After the crisis, "the European Union has been slow to implement the extensive and often politically challenging policy changes needed to create a cohesive and integrated energy market. The Orange Revolution presented an excellent opportunity to work with a newly empowered Ukrainian government to reform its gas sector, including transit, which is so vital to Europe's own energy security. However, this opportunity was squandered by both Ukraine and its Western friends" (Bovair & Chow, 2009).

This crisis also taught the EU some lessons: it was not wise to be overly dependent on a single supplier or supply route; even disputes which do not directly involve third countries can affect those countries; and all parties need to be part of an international dispute settlement procedures such as those provided by the Energy Charter Treaty and its Transit Draft Protocol which Russia has never ratified. After this crisis, the EU slowly started waking up for the urgent need to strengthen its energy security (Stern, 2006, Bovair & Chow, 2009).

On January 4, the EU Gas Coordination Group met to congratulate the two countries on settling the dispute. During his regard, the EU Energy Commissioner, Andris Piebalgs, stated that:

"I too welcome the agreement reached between Gazprom and Naftogaz. [...] . We have been stressing that such a quick agreement was vital if Russia and Ukraine were to retain their position as reliable and secure gas and transit suppliers to Europe. Indeed, I believe that we can say that, with this action, both Gazprom and Naftogaz have proved their determination to remain wholly reliable suppliers of gas and transit respectively to the EU" (Piebalgs, 2006).

After congratulating both parts for the dispute settlement, the Energy Commissioner explained that the EU had learned three lessons with it:

“The first is that the manner that the Commission and Council have dealt with the issue has been shown to have been both measured and successful. [...] Secondly, this has shown the benefits of the Energy dialogues that have been established between the Community and both Russia and the Ukraine. These have provided us with the necessary framework to get our views across effectively and established the relationship of trust between us to enable this to be done in the clearest possible terms. Thirdly, it is clear that Europe needs a clearer and more collective and cohesive policy on security of energy supply” (Piebalgs, 2006).

In the event of another future similar incident, the EU was advised to take some particular measures to promote transparency and provide comfort to EU countries as, for example, anticipating future problems in the transit relationship between Russia, Central Asian countries and CIS transit countries by requesting more transparency of contracts and gas flows. The Energy Charter and ECT could actually have had an important role in solving the conflict, first because the ECT was signed by all EU countries, Russia and CIS countries; second because its Article 7 has a “conciliation procedure” to solve this kind of disputes; and third because under the ECT, the EU could start more strongly addressing issues such as transparency of supply and transit countries, transparency of gas flows at metering stations at the borders of Russia and CIS countries, and at the borders of CIS and EU countries, and request assurances from Russia and Ukraine, Belarus and Moldova – countries that also transit Russian gas to Europe – that they will provide anticipated warnings to the EU of possible problems in gas transit (Stern, 2006, p. 15).

Russia itself had already been thinking of a solution to these kinds of gas transit problems, even before the crisis took place. Through Gazprom, Russia had for many years been thinking on the development of an offshore pipeline that could by-pass transit countries such as Ukraine or Belarus – and the Nord Stream pipeline, which was inaugurated in 2011, reflected this Russian strategy. This strategy, however, could not change the geography of Russia’s existing pipeline export infrastructure through Ukraine, Belarus, and Moldova to Europe (Stern, 2006, p. 14).

2.1.2. The first Russia-Belarus gas crisis (2007)

When, in late 2005, world oil and gas prices reached a new high and Russia requested Ukraine to start paying “European prices” for Russian gas, Gazprom had already planned to request this to other CIS countries, as it was the case of Belarus. As such, on 31 December 2006, Belarus and Gazprom signed

a 5-year contract where they agreed to rise, in 2007, the prices at which Belarus was buying Russian gas from €38.67 to €82.84 per thousand cubic meters. On this same day, in a public statement, Gazprom stated that from 2008 onwards, the price that Belarus was paying for the Russian gas would gradually increase until 2011. Accordingly, in 2008 Belarus would pay 67% of the European price, in 2009, 80% and in 2010, 90%. From 2011 onwards, Belarus would pay the full “European gas price”. Furthermore, in the same public statement, Gazprom also stated that it would buy 50% of Beltransgaz assets for €2.07. As a response to the Russian gas price increase, Belarus increased the transit fee price that Gazprom had to pay to transit its gas through Beltransgaz’ pipelines towards the EU. The transit fee increased from €0.62 to €1.20 per mcm/100km. bn (Yafimava & Stern, 2007, p. 1).

On 2 January 2007, Belarusian first deputy-minister Semashko held a press-conference where he remarked that in each of the four year, starting in 2007, Gazprom would pay Belarus €517.72 m representing 12.5% of Beltransgaz’s shares. Thus, by 1 June 2010, Gazprom would become an owner of 50% of Beltransgaz’s shares. At the same time, in line with gas price increases, there would be a gradual increase in the transit fees paid by Gazprom to Belarus, Semashko remarked¹¹ (Yafimava & Stern, 2007, p. 1).

In order to understand the emergence of the 2007 agreement, one must go back to July 2002. From this month onwards, Gazprom started selling gas to Belarus at the Russian domestic price on the condition that, in exchange, Belarus would privatize its gas transit transmission network, Beltransgaz, which Belarus did not do until September 2002. As a response, Gazprom threatened to suspend gas deliveries and to increase gas prices. This had the desired effect and by April 2003, Beltransgaz became a joint stock company. However, the Belarusian government declared that Gazprom’s proposed valuation on Beltransgaz was too low and, as such, Belarus refused to sign the contract proposed by Gazprom that would form the venture between the two companies. In turn, Gazprom natural gas deliveries to Belarus via Beltransgaz’s Northern Lights pipeline were disrupted on January 1, 2004. Under these circumstances, Belarus had to make short-term supply contracts with independent companies. When these contracts expired, the independents refused to keep supplying Belarus and the country started taking unauthorized gas offtakes from the Yamal-Europe pipeline – gas

¹¹All these developments are of utmost importance for European energy security. In 2010, Belarus’ total gas transit capacity was 48 bcm which is 22 percent of Russia’s export capacity to Europe. Furthermore, in 2010 the EC estimated that Belarus transited around 6.25 per cent of total EU gas consumption; however, for countries like Lithuania and Poland the figures are much larger (Yafimava, The June 2010 Russian-Belarusian Gas Transit Dispute: a surprise that was to be expected, 2010)

that was intended to be delivered to Europe. As a response, Gazprom also cut-off gas flows via this route. Nevertheless, in June 2004, Gazprom signed a new contract with Belarus at which agreed to send, for the rest of the year, 10.2 bcm at a higher price of €38.67/mcm and at a higher transit rate of €0.62/mcm/00km. However, the Beltransgaz valuation issue was still on the agenda and to solve it, both sides agreed to hire ABN Amro to evaluate the company's assets. The company made several valuations, with the highest assessment corresponding to €4.14 bn, while Gazprom was only willing to pay 50% at €2.07 bn. However, in 2006, Russia, in line with its new policy that all CIS importers were required to pay "European gas prices", suggested that Belarus should instead pay €165.67/mcm, which in turn led the Belarusian president to state that, in that case, the value of Beltransgaz's assets should be proportional to the gas prices increase, which meant €14.08 bn instead of €4.14. During the subsequent rounds of negotiations, Gazprom lowered its price from €165.67 to €140.82, to €91.12 and then to €86.98/mcm, but Belarus kept rejecting the offers, stating that they were a violation of the agreement that established that Belarus should receive gas at Russian domestic prices. Russia saw no other option then threatening to stop supplies to Belarus on 1 January 2007 – but Russia made clear it would do so while protecting European consumers to the fullest. With this in sight, Belarus had no other option than paying nearly double the gas price it was paying before and selling a stake of 50% of its state-controlled pipeline network, Beltransgaz (Yafimava & Stern, 2007, pp. 1-4, Council on Foreign Relations, 2010).

By raising the gas price for Belarus and buying a 50% stake of Belarus' Beltransgaz, Russia ended an era of intense cooperation with Belarus. The move showed that Moscow's alliances were no longer going to be determined by ideological considerations but by market and national interests, which, in this case, were price increases for gas within Russia, Gazprom's difficulties in meeting its supply contracts at the same time that gas reserves dwindle, the campaigning for the 2007/8 parliamentary and presidential elections and meeting the criteria for admission to the WTO, which does not allow favoring neighbors (Lindner, 2007, p. 1).

Moreover, some argue that Gazprom's strategy towards Belarus suggests that Russia was getting tired of supporting Lukashenka, who has steadfastly refused to grant Russia more control over Belarus' economy (RadioFreeEurope/ RadioLiberty, 2007).

But more importantly for this dissertation, raising the gas prices and buying half of Beltransgaz brought consequences for both Belarus and the EU. Belarus, whose economic and political stability was based

on cheap energy supplies from Russia, plunged into a crisis. The EU and Germany, whose energy security stability is based on natural gas deliveries coming from Russia and passing through Belarus, saw that this energy disruption revealed the fragility of the partnership they maintain with Russia and the lack of energy dialogue with Belarus. As such, it was recommended that the EU raised pressure on Belarus to establish a permanent EU presence in the country, set up an energy transit working party (between the EU, Belarus, Ukraine, and Russia), support small and medium-sized businesses, alternative energy concepts and civil society organizations, and demand that Belarus signed the European Energy Charter (Lindner, 2007, p. 4).

Again, as happened with Ukraine in 2006, the energy crisis with Belarus in 2007 showed that Russia could present itself as a complicated partner and, as such, the EU needed to be one step ahead. In this case, it showed the importance for the EU to institutionalize relations with the supplier and the transit country and thus, to put them on a more solid legal footing (Lindner, 2007, p. 4).

However, when everyone thought the conflict had come to an end, a new layer was added to it – on 3 August 2007, Gazprom announced that it would reduce gas supplies to Belarus after the planned doubling of gas prices resulted in Belarus falling €377.73 million behind on gas payments to Gazprom (Yafimava & Stern, 2007).

The European Commission responded immediately, stating that Russia and Belarus should seek an amicable solution to this energy dispute, which could also affect gas deliveries to Western Europe. In this regard, the 2007 EU Commission spokesperson, Martin Selmayr, remarked:

“We take this development very seriously. [...] Minsk and Moscow should resolve their dispute without delay and create conditions for the timely resumption of deliveries" (Deutsch welle, 2007).

Again, Russia showed that its new energy foreign policy – even though targeting the former USSR states – could not but have direct implications to the energy supplies of the EU (back then, about one fifth of Russian gas exports to Europe transited through Belarus (Deutsche Welle, 2007).

2.1.3. The second Russia-Ukraine gas crisis (2009)

At the beginning of 2009, another energy dispute occurred between Russia and Ukraine involving unpaid gas bills, transit fees and new gas price demands. But this crisis had a much greater impact

than the previous one. This time, the crisis led to a disruption of supplies to European countries of nearly two weeks, an event unprecedented in the international gas trade as it was contrary to global business practices, while also violating bilateral and multilateral agreements that had previously been concluded (Westphal, 2009).

During the conflict, both Russia and Ukraine's positions were informed by the domestic political issues and power dynamics, rather than oriented towards the solution of the conflict. Consequently, Europe suffered the biggest energy supply disruption in its history, while Russia and Ukraine lost their status as trustworthy suppliers and transit partners. This crisis revealed the EU's vulnerability to gas supply disruptions and broke apart the trilateral relationship between Russia, Ukraine, and the EU (Westphal, 2009, p. 5).

In order to understand this crisis, one must go back in time and look at several precedents. The most important one is the 2004 Gazprom decision to gradually increase gas prices practiced in the CIS area to European levels – a decoupling that was made to break away with the internationally criticized untransparent barter trade. Because of this decision, the 2006 Ukraine gas crisis erupted, with Ukraine refusing to pay higher prices and allegedly stealing gas from the pipelines. The conflict between Russia and Belarus in 2007 established another precedent. Also, here, as we previously saw, Belarus entered a dispute with Russia that involved non-authorized offtakes of Russian gas from Belarusian pipelines, that was destined to Europe. Although this crisis did not have any direct implications to European consumers, it culminated with Russia achieving one of the main objectives it had towards Belarus in an intimidating way: the takeover of a fifty per cent share in Beltransgaz (Westphal, 2009, p. 8).

When the 2009 confrontation between Russia and Ukraine occurred, it was seen as surprising because during negotiations in 2008, an agreement had almost been reached concerning the terms of the gas trade between both countries – but then the global recession intervened, with oil prices, which are inherently connected to gas prices, going into a tailspin and forcing Gazprom to ask Ukraine to pay its gas debt. From this point on, the two sides engaged in an increasingly acrimonious public dispute. Gazprom proposed to make an upfront payment for transit at the 2008 rate (€1.41/mcm/100km), in order to provide funds for the debt to be cleared, but this offer was rejected by Naftogaz. As a response, on 19 December, Gazprom threatened that if Ukraine did not pay its debt until the end of 2008, then Gazprom would not sign a supply contract with Ukraine, leaving the country without natural gas. Making things even worse, on 31 December, Naftogaz' chief executive, Oleg Dubyna, replied back

saying that if Gazprom delivered gas through Ukraine for transit to Europe, then Naftogaz could consider this gas to belong to an 'unidentified owner' and could, therefore, confiscate it. This statement was the final straw that Gazprom and Vladimir Putin needed – on January 1st, Gazprom cut all supplies intended for the Ukrainian consumption, while supplies to Europe continued (Pirani, Stern, & Yafimava, 2009, pp. 12-19).

The first four days of this crisis were almost uneventful, but in contrast to the 2006 one, when by 4 January flows were back to normal, on 4 January 2009, Gazprom claimed that Ukraine had stolen 50 million cubic meters of Russian gas, 25 of which belonged to European customers (Pirani, Stern, & Yafimava, 2009, p. 10).

On 6 January, the first key moment of this crisis began as far as deliveries for Europe were concerned. Prime Minister Putin and Gazprom CEO, Aleksei Miller, agreed that, taking into account Ukraine's theft, they would be seriously reducing gas flows through Ukraine, which would have an imminent impact to European companies (Pirani, Stern, & Yafimava, 2009, p. 21).

On 7 January, the second and most serious moment of the crisis began. For the next 13 days, gas was completely cut-off to countries in South-Eastern Europe that were to 100 percent dependent on Russian imports, and it was also cut-off partially to other European countries (Pirani, Stern, & Yafimava, 2009, p. 22).

With the Russian and Ukrainian sides blaming each other but not showing urgency to move towards agreement, the EU started reacting by establishing the terms of reference for a monitoring mission with experts from both sides of the conflict, including the EU and major European gas companies. On 11 January the EU monitors were deployed, but until 17 January no agreement was reached as on the one hand Gazprom claimed that attempts to resume flows were being blocked by Ukraine and, on the other hand, Naftogaz claimed that lack of technical agreement with Gazprom was preventing resumption of the flows. However, on 19 January both sides reached an agreement and signed a 10-year supply and transit contract. On 20 January gas flows to Ukraine and Europe restarted and on 22 January gas flows to all European customers started returning to normal levels (Pirani, Stern, & Yafimava, 2009, pp. 22-25).

In contrast to the 2006 crisis, this time the EU was far better prepared. On 5 January, the EU tried to stay neutral through a statement of a European Commission Energy spokesman who called the dispute

“a purely commercial conflict which should be resolved bilaterally” (Pirani, Stern, & Yafimava, 2009, p. 46). On that same day, an EU fact finding mission was sent to Moscow and Kiev and on the following day, the European Commission President, José Manuel Durão Barroso, stated that:

“[...] it was unacceptable that the EU’s gas supply security was taken hostage to negotiations between Russia and Ukraine. He warned that reputation as reliable partners [...] was at stake and insisted that Ukraine and Russia had to find a stable and long-term solution to guarantee reliable gas supplies to the EU” (European Commission, 2009)

After the crisis came to an end, the President of the European Commission made a new statement where he welcomed both sides for reaching an agreement, highlighted the work of the EU, and presented the lessons it had learned. However, he still made it clear that this crisis presented a very serious challenge for the EU’s energy security, staining Russia, and Ukraine’s reputation as energy partners:

“Today we can – finally – welcome the resumption of gas supplies to Europe. The Russian side opened the valves this morning and the Ukrainian side has allowed the gas to flow. [...] We set up a monitoring team on the spot over a week ago, which was vital for confidence building. [...]

So, welcome news. But at the same time, it is difficult to welcome something that should not have happened in the first place. It was utterly unacceptable that European gas consumers were held hostage to this dispute between Russia and Ukraine.

Therefore we have to learn the lessons of this dispute. [...] First, solidarity worked inside the EU and with our near neighbours. [...] Second, however, we must not allow ourselves to be placed in this position in future. New Year is for fireworks and celebration, not gas crises. This cannot become an annual event. [...] And finally, let us remember that energy efficiency, renewables, all means of cutting back on carbon emissions, will become ever more important in the future. Measures to develop energy security and measures to tackle climate change are mutually reinforcing” (European Commission, 2009).

This was the first time ever that EU member states had seen impactful amounts of natural gas flowing from Russia to their national reserves being cut-off. This was a ‘wake up call’ for the EU of the consequences that its energy dependency towards Russia could bear. As such, on 16 July, the

European Commission released a working document concerning measures to safeguard security of gas that should be incorporated into future legislations and in the Gas Security of Supply Directive:

“The early warning and crisis prevention mechanisms at the EU level are weak in dealing with a sudden and unforeseen crisis. The situation at the moment is largely based on an assumption that national responses exist and will be enough. [...] There is inadequate coordination and coherence between national provisions to anticipate and avoid crises. Greater consistency in crisis prevention might be achieved for example by regular exchanges between Member States about the situation of emergency measures and peer reviews of risks assessments among Member States. [...] Enhanced engagement with EU’s major suppliers and transit countries can also provide an appropriate framework for developing early warning mechanisms” (European Commission, 2009).

2.1.4. The second Russia-Belarus gas crisis (2010)

One year after a very severe transit dispute with Ukraine, Russia incurred a new one, but this time with Belarus again. As referred to above, the two countries had already had two incidents in the past that resulted in gas transit interruptions, namely the 2004 gas dispute and the 2007 oil dispute; but this new one was particularly important as it came right after the ‘wake up call’ Ukraine gas dispute with Russia that provided momentum for the discussion on the EU’s energy dependency towards Moscow (Yafimava, 2010, p. 3).

This time, Russia presented Belarus with an ultimatum to pay its gas debt in five days; otherwise, Belarus would face gas supply cuts. In turn, Belarus asked Gazprom to pay its transit debt at an increased rate, threatening to reduce and potentially halt transit of oil and gas to Europe. Despite its counter-demand, there was not much Belarus could do. In the 2000s, when Moscow realized that the project of political integration with Minsk had failed, Russia decided to cancel two very important subsidies to Belarus: one to Belarusian oil refineries that received crude oil without export duties, and another one corresponding to cheap gas prices. The cancelation of these subsidies created a high pressure on Belarus’ finances, which became even more pressurized after the 2008 financial crisis (Yafimava, 2010).

Belarus acknowledged that its negotiating power *vis-à-vis* Gazprom was smaller than ever. However, because of the soon to come Nord Stream pipeline completion in 2012, Belarus attempted to use its

still important energy transit network to secure better commercial terms. Belarus did so in three different ways. First, in January 2010 Belarus asked Gazprom again to reduce the prices of natural gas, which Gazprom refused. Second, in April 2010 Belarus sent Gazprom a draft agreement that demanded Gazprom to extend the period for Belarus to pay European gas prices until 2014-2015, instead of 2011 as it had previously been agreed – obviously, Russia refused. So, finally, as a last resort, the Belarusian president offered to sell a controlling stake in Beltransgaz' if Belarus were to receive gas at domestic Russian prices. Russia replied that it would only consider this offer if Belarus paid its gas debt, which Belarus did not do. Actually, this debt just kept growing over 2010. Belarus was supposed to pay €140.17/mcm in the first quarter of the year, and €153.17 in the second, but the country unilaterally decided to pay Gazprom only €124.25/mcm, and as a result, accumulated debt. As a response, Moscow started gradually reducing gas pressure towards Belarus and, in turn, Belarus threatened to divert gas in transit in order to meet domestic demand and until Gazprom paid its debt in transit fees. Russia kept reducing the gas pressure and without having other options, on June 23 Belarus paid its debt of €154.90 million to Gazprom. As a response, Gazprom also paid €188 million for transit, in line with what was defined in the contract, putting an end to the dispute (Yafimava, 2010, pp. 8-10).

During the crisis, the Belarusian energy ministry sent a letter to the European Commission warning about a possible reduction of gas going to the EU through Belarus (Yafimava, 2010, p. 9). Moreover, the EU Energy Commissioner, Günther Oettinger, also received a letter from the Russian Deputy Prime Minister, Igor Sechin, in June 21, where through the Early Warning Mechanism (EWM), he warned for an interruption in energy supplies flowing through Belarus towards some EU member-states, adding that, despite the danger that this presents for EU energy security:

“The Russian side continues to do its utmost to avoid a crisis” (Rettman, 2010).

Even though this crisis was also caused by Russia – as Moscow, did not fulfil with its contractual obligations to pay the agreed transit fees to Minsk – Russia made good use of the EWM on energy cut-offs set-up in 2009 during the gas dispute with Ukraine (Rettman, 2010).

EU officials publicly appreciated the Russian warning, saying that:

“This Early Warning Mechanism works well. It's not just the notification part, it's when the consultations start, that's when it gets interesting, because we talk about what could happen and what would be the solution for us in an ongoing process” (Europa Nu, 2010)

Additionally, even the Lithuanian Deputy Foreign Minister, Evaldas Ignatavičius, reiterated the Russian worry to not create any negative consequences to Europe with the dispute – even though Lithuania was one of the most affected countries by the Belarus cut-off:

“I don't think Russia wants to send any more negative signals to the EU. [Despite the Belarus dispute] Russia wants to show that it is simply interested in selling gas to the West. (Europa Nu, 2010)”

In terms of the consequences that this crisis had for the EU's natural gas reserves, the European Energy Commissioner spokeswoman, Marlene Holzener, stated that Poland and Lithuania were receiving the same volumes of natural gas as usual – implying that Germany had not also been affected (Yafimava, 2010, p. 10). However, the Lithuanian national gas company, Lietuvos Dujos, reported that it experienced a reduction of gas supplies coming from Russia through Belarus of about 30% (BBC News, 2010).

Jerzy Buzek, Head of the European Parliament, disagreed with the public statement made by Marlene Holzener and gave credit to the Lithuanian national gas company report, stating that Poland, Germany and Lithuania had indeed experienced reductions. Buzek's statement was later discredited by the Commission's spokeswoman, Nicole Bockstaller and by the Russian Energy Minister, Sergei Shmatko (Yafimava, 2010, p. 10).

Although the EU saw this crisis as a commercial matter with no political implications for the Union's energy security strategy, one day before the crisis, the Energy Charter Secretary General issued a statement urging for the need of interrupted transit:

“This dispute over payments for gas supplies and transit is a commercial matter. Still it is important to draw attention to the principle of uninterrupted transit, which is a core element of the Energy Charter Treaty. [...] In accordance with Article 7(6) of the Treaty, a Contracting Party through whose Area Energy Materials and Products transit shall not, in the event of a dispute over any matter arising from that Transit, interrupt or reduce, permit any entity subject

to its control to interrupt or reduce, or require any entity subject to its jurisdiction to interrupt or reduce the existing flow of Energy Materials and Products” (Mernier, 2010).

By accepting Gazprom’s demands over gas prices’ increase and by selling a big stake of its energy infrastructure to Russia, Belarus, like Ukraine, remained with few bargaining cards left. Moreover, the bargaining power of these states would further diminish after the construction of the Nord Stream pipeline in 2012, allowing Russia to bypass all the energy transit systems that it was dependent on, like the ones of Ukraine and Belarus. This pipeline was thought to precisely make Russia more independent from Eastern European transit systems and to satisfy Europe’s growing demand. However, it had a severe impact on the EU energy security system, as it is going to be demonstrated below. For now, one must mention that despite not having had any severe consequences for Europe’s energy reserves, the 2010 gas crisis had an effect and shaped the EU’s energy security strategy. On 20 October 2010, the Council of the European Union and the European Parliament adopted the Regulation (EU) No 994/2010 concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC. In this regulation, the EU highlighted the challenge of cooperation presented by Russia in the gas disputes with Ukraine and Belarus by emphasising:

“The failure of the single largest gas infrastructure, the so called N – 1 principle, as a realistic scenario. [...] growing reliance on imported energy as a significant additional risk for the Union’s security of energy supply [...]”

And, as such, urged for the need of:

“[...] an internal gas market as a central element to increase the security of energy supply in the Union and to reduce the exposure of individual Member States to the harmful effects of supply disruptions (Official Journal of the European Union).”

Furthermore, this regulation drew several recommendations to be incorporated into Member States’ energy policies in order to reduce their dependence from single suppliers – clearly referring to Russia. The implications of this directive for the EU’s energy (security) policy will be analyzed below.

2.1.5. Russia as EU's energy challenge and the first war in the EU Eastern neighborhood: Russia-Georgia (2008-2009)

During the energy disputes of the 2000s, especially the January 2009 one, when Russia cut gas supplies for 13 days, affecting a total of 16 EU member states, Russia clearly used energy as a weapon against pro-Western states that it considered to be in its sphere of its influence, as for example Ukraine; while also affecting EU and NATO member-states. This showed how dependent Europe is on Russian gas supplies and thus, triggered concerns related to the security of EU gas supplies all over the continent (Goldthau, 2015).

In order to respond to its concerns, the EU started rethinking its energy strategy and looking at incorporating new dynamics into it such as diversifying its supplies by creating alternative routes to obtain central Asian energy sources via Azerbaijan and Georgia (de Haas, 2009). Georgia was, since the beginning, a key possible partner to the EU as it is a major distribution center for energy in the region. As it happens, ever since Georgia became a key energy player for the EU, Russia experienced major losses in market share and in its political bargaining power with Europe. So, once the Russians invaded Georgia in 2008, a major part of its military operations focused on Georgian energy distribution centers such as pipelines and ports (AFCEA International, 2012, p. 19). For example, Russia allegedly tried to bomb the Georgian sections of the Baku-Tbilisi-Ceyhan (BTC) oil pipeline and of the South Caucasus gas Pipeline (SCP) in an attempt to disrupt Caspian energy pipelines that it does not control and that in both cases provide supplies to EU member-states (Nichol, 2009, p. 21). Another example of the Russian attempts to boycott Georgian infrastructure to regain strategic influence over Europe's energy supplies was the unauthorized deployment of 400 Russian railway troops and engineers to restore 50 kilometers of railway line between Sukhumi and Ochamchire. Ochamchire, which occupies a strategic place in the Black Sea, could then be used as a base by Gazprom's announcement of offshore exploration for oil and gas in the Black Sea coast (Blandy, 2009).

With Georgian energy infrastructure wounded, Russian supplies became more attractive again to Europe. However, the Russian actions in Georgia showed Europe that Russia was indeed becoming more and more aggressive, especially in what concerns energy matters – but Russia was still a key energy supplier to the EU, especially to some EU member-states that benefited more of the Russian position. As such, some EU member-states, led by France and Germany, pushed for a diplomatic

solution to the situation in Georgia, while others, including Poland, Italy, Sweden, and the UK, advocated a stronger stance against Russia (Markovic, 2008).

It is clear that one of the main intentions of Russia in its intervention in Georgia was to gain strategic advantage over some key Georgian energy infrastructure and energy-rich areas that were giving Georgia a special place in the EU's energy equation and at the same time reducing some of the Russian relevance in it. This showed the EU again how hard it was to cooperate with such a hostile country, and that is why the EU – while not forgetting the relevance of Russia to its energy security – kept engaging Azerbaijan and Georgia to obtain central Asian energy sources. Nevertheless, at the same time, Moscow did not want to stay behind and started to try to get rid of its dependence on transit of its gas through the Ukrainian pipeline network and tried to get Western and Southern European states interested in constructing alternative pipelines through these regions (de Haas, 2009, p. 7).

3.1. 'Europeanisation from the East'? New pipeline projects and growing tensions (2011-2019)

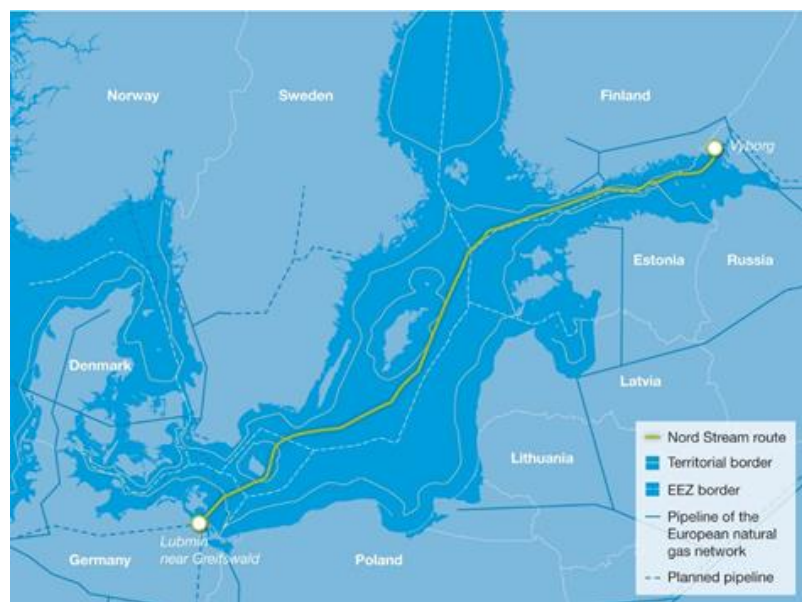
There are two controversial cases in which Russia tried to get rid of its dependence on transit of its gas through Ukraine and convinced Western and Southern European states to construct pipelines that directly connected Russian natural gas to them. The first and most relevant one is the already mentioned Nord Stream, a pipeline that resulted from a bilateral agreement between Germany and Gazprom. Nord Stream crosses all the Baltic Sea, from Russia to Germany, avoiding intermediaries of other transit routes, as for example, the Yamal-Europe and Progress pipelines; the second is South Stream, a pipeline that resulted from a deal between Hungary and Italy with Gazprom. This pipeline started to be built to the detriment of the Nabucco pipeline, one of the main European projects for diversifying the sources of gas supplies to EU countries (Natorski & Surrallés, 2009, p. 72).

3.1.1. Nord Stream (2011)

Russia considers Western Europe a lucrative economic zone with which gas trade is indispensable. Particularly important in this domain are the German, Italian and British markets due to their big populations that consume a lot of natural gas. Besides, rising demand of natural gas among these countries motivates Gazprom to promote energy relations with them. Moreover, these countries pay Russia higher prices for natural gas than the CIS ones, providing Russia with a very strong income source (Proedrou, 2012).

On the one hand, Russia has in high regard the core EU member-states with which it trades gas supplies as they are important partners in the global politics panorama. On the other hand, when it comes to energy relations with the Eastern Neighborhood, Russia approaches it in a neo-imperialist way as it views it as still part of its sphere of influence – and the fact that their energy market is not so important for Russia allows it to follow such a stance too (Proedrou, 2012, pp. 80-81).

This dual Russian attitude is reflected in the construction of Nord Stream. On the one hand, Nord Stream ensures Gazprom a vital presence in one of its most lucrative European markets, Germany. On the other hand, Nord Stream allows Russia to play political games with countries of Central Eastern and Eastern Europe, as it bypasses their traditional transit routes that Gazprom is very dependent on in order to send gas to Europe. This allows the company to avoid paying fees for Russian gas transit through their systems¹². Furthermore, these countries stand to lose a lot of revenue that they enjoy from the transit of Russian gas through their territory. As such, they see Nord Stream as a project that is absent of any economic logic and that is only driven by geopolitical interests (Heinrich, 2017, p. 61; Proedrou, 2012, p. 81).



Map 1: Nord Stream route (with legends) (Nord Stream, 2011)

¹²Brussels, 10 January, 2020. Interview with an anonymous researcher from a European think tank.

Bypassing the transit systems of countries like Ukraine and Belarus has been a longstanding Russian objective. These countries have damaged Gazprom's influence in Europe in the gas crisis of 2006 and 2009, when they siphoned off gas destined for Western Europe, which created economic and reputational problems for the Russia-EU gas trade (Proedrou, 2012, p. 83).

As such, Nord Stream allows Russia to avoid what it considers inconvenient partners such as Ukraine and Belarus, which in turn provides Russia with greater control of its export trade without suffering neither economic losses nor damage to its reputation (Proedrou, 2012, p. 83).

The construction of the Nord Stream pipeline generated a sweet and sour effect among several European states because of the effect the pipeline had on European energy security. Poland was one of the most vocal states in this regard, but from the 'sour' point of view. As a traditional transit country for natural gas, Poland saw the construction of Nord Stream as a politically motivated project and as a threat to its energy security. Poland argued that Russia would be able to interrupt gas deliveries to Poland, without harming Germany or other important Western European consumers. Additionally, Poland argued that the construction of the pipeline resulted in environmental damage, a loss of transit fees for Russian gas transported through Poland via the Yamal-Europe pipeline¹³, and in the blockage of the harbor entrance in Świnoujście, which is essential for Poland's LNG imports and thus, for Poland and Europe's diversification of energy supplies (Heinrich, 2017, p. 65).

Taking this into account, many Polish politicians pronounced their negative opinions about the impact that Nord Stream had on Polish and European energy security. Elżbieta Kruk, a current Polish Member of the European Parliament¹⁴, remarked the following in 2005:

"The Baltic Sea pipeline [...] is a political decision [...]. Has the minister not heard of the economization of Russia's foreign policy, reaching its political goals by utilizing resource dependence? The Russians admit openly that gas transit has a political dimension, even a strategic one. If the construction of the Baltic Sea pipeline would be a purely economic

¹³The Yamal-Europe Gas Pipeline transports gas from the Yamal peninsula to European consumers and travels across Russia, Belarus, Poland and Germany. The export corridor increased flexibility and reliability of Russian gas supply to Western Europe. The European Union qualified the Yamal – Europe as the top-priority investment project implemented as part of the Trans-European Network (TEN) (Global Energy Monitor, 2020).

¹⁴"MEPs are the elected representatives of EU citizens; they represent their interests and those of their cities or regions in Europe. They listen to people with local and national concerns, interest groups and businesses." They are EU lawmakers, therefore being one of the main intervenients in EU energy policy-making, but can also scrutinise the Commission and the Council of Ministers" (European Parliament, 2020).

investment, why would the investors be willing to pay four times the amount needed for the construction of the Yamal II pipeline?” (Heinrich, 2017, p. 66).

Also, Bogusław Sonik, a former Polish member of the European Parliament, pronounced himself in this regard, by highlighting the negative impact that the pipeline would have for Europe’s energy security:

“Its construction arms our energy security; it also harms the energy security of Lithuania, Latvia, Ukraine, Belarus, the Czech Republic and Slovakia and – considering the environmental damage – of Estonia, Sweden and Denmark. [...] We do not have an aversion against Russia, but common sense requires us to diversify our supplies. Energy security is one of the most elementary goals of any state. Thus, it is also a priority of the European Union” (Heinrich, 2017, pp. 66-67).

The argument put forward by Elżbieta Kruk summarizes the context in which the EU has been formulating its energy (security) policy, and how it does so through a dual take-approach. When Kruk tells us that the construction of Nord Stream presents an energy security risk to some Eastern and Northern European countries, as it puts at stake their possibility to diversify their supplying sources, we realize that these countries are obviously against Russia’s energy strategy in Europe and thus, the ones advocating for an energy approach that tries to demarcate itself from the Russian dominance of the EU’s natural gas market.

At the same time, the argument below, put forward by Sławomir Debski, director of the Research and Analysis Office at the Polish Institute for International Affairs, shows us that on the other side of this European dual-take approach there is Germany – supporting Russia’s dominant position in the European natural gas market – as contrary to its Northern and Eastern European neighbors, it highly benefits from the construction of the pipeline, as it gives Germany the status of a privileged economic partner, with regard to the extraction and delivery of fossil fuels, and many economic and financial benefits. In this regard, Debski tells us that:

“Russia views Germany as its most important partner in Europe. The successful conclusion of the Russo-German contract for building the Nord Stream gas pipeline has emboldened the Russians so much that they intensified their efforts to pour sands into the gears of European integration and to break up European Unity. This is promoted by offers to grant Germany the

status of Russia's privileged economic partner, especially with regard to the extraction and delivery of fossil fuels" (Heinrich, 2017, p. 69).

With these benefits in sight, Germany has been positive towards the construction of the pipeline which is seen by many in the country as an alternative transport route that avoids unreliable transit countries and, therefore, enhances Germany's energy security. However, there are some voices in Germany that highlight the environmental risks in the pipeline construction and the possible harm to relations with Poland and the Baltic states. This, plus Germany's awareness about Russia's dubious reputation and sometimes unrealistic promises, is why Germany has always been wary in its contracts with Moscow (Heinrich, 2017).

The construction of Nord Stream was seen in an ambiguous way in Europe: while Eastern, Central Eastern and Northern European states saw it as having a very negative impact, Germany saw it in a positive way; However, the truth is that a good amount of literature that has been published since then in this regard – as we could see in the paragraphs above – tells us that Nord Stream was mostly negative for the EU's energy security (Proedrou, 2012; Heinrich, 2017). Considering that the objective of this chapter is precisely to clarify how Russia presented itself as a challenge for the EU's energy security, one scrutinized below all the risks posed by Nord Stream:

- Geopolitical: A Russian attempt to increase its influence in Central Eastern Europe and therefore, its capacity to apply political pressure to these countries (gas conflicts between Ukraine and Russia show that a blackmail is possible). The pipeline gives a pretext for increased military presence in the Baltic Sea, which raises concerns of many Northern European states; Limitation of maritime traffic for civilian and military vessels of Central Eastern European states, including the limitation of their fishing area, which represents a direct threat to these states' *raison d'état* (Whist, 2008; Balzer, 2011);
- Economic: Increased dependency in gas supplies from Russia, which means it is not beneficial for the diversification of European gas supplies but for Gazprom's monopolistic infrastructure; the loss of transit fees for many European countries that transport Russian gas through their territories, for example, for Poland through the Yamal-Europe pipeline, which means a deterioration of its economic position; The blockage of the construction of a pipeline between Poland and Norway, which undermines diversification of gas supplies (Whist, 2009; Värk, Nutt, & Martin, 2011);

- Environmental: Several hundred thousand tons of ammunition lie on the ground of the Baltic Sea, as a result of the Second World War, and the pipeline construction and consequent operation, could have moved or activated these ammunition, endangering people at the beaches, fisherman, sportsmen and the maritime flora and fauna (European Parliament, 2007)

Nord Stream began operating at the end of 2011. However, due to the EU's legal requirements, as for example, the Third Energy Package, the pipeline has not been able to use its full capacity. At the same time, while Germany and its Nord Stream partners, E.ON Ruhrgas and BASF, have fiercely supported the project's development and conclusion, Poland and some Baltic and Eastern European states – which saw their energy security threatened by a pipeline that would bypass them – have fiercely criticized its acceptance by the EU (Proedrou, 2012; Heinrich, 2017).

3.1.2. South Stream (2011)

By now, we could already conclude that while the EU, as an importer of natural gas, pursues security of supply by diversifying its supplying sources and strengthening the role of its suppliers, Russia, as an exporter, pursues security of demand by strengthening its presence in the markets that can absorb its natural gas exports. Thus, Gazprom tries to ensure demand in the EU for its gas through the construction of direct Russia-EU pipelines. In this sense, while Nord Stream provides direct access to the EU's most lucrative market – Germany, South Stream had the objective to respond to the increasing gas demand of Southeastern Europe (Proedrou, 2012, p. 84).

South Stream was Gazprom's pipeline project to transport Russian natural gas, through the Black Sea, to Bulgaria. From Bulgaria, South Stream would then have two branches supplying Romania, Austria, Hungary, Slovenia, Greece, Italy and, by then, the non-EU members Croatia, Serbia, and Bosnia-Herzegovina. The pipeline, which was estimated to have a capacity of 63 bcm per year, was a competitor to the Nabucco pipeline (which was later abandoned in favor of the Trans Adriatic pipeline), since they both aimed at the Southeastern European market. Moreover, South Stream had an EU-wide character, in contrast to that of Nord Stream, and further avoided transit-dependency risks emanating from Ukraine and Belarus. This 'Russian-dream' pipeline would add another route to EU-Russia gas trade, strengthening this way security of demand for Russian gas. (Proedrou, 2012; Eni, 2015; Gazprom, Year Unknown).



Map 2: South Stream route (Euractiv, 2014)

It is even argued that South Stream was the biggest consequence of the 2006 gas crisis, as since then President Putin decided that diversification capacity needed to be expanded to the point where Russian gas exports to Europe could completely circumvent Ukraine – which would be the pipeline’s main objective. This conviction of the Russian President hardened even more after the 2009 gas crisis and the reputational damage that it brought to Gazprom. As such, South Stream was part of a long-planned Russian strategy to increase flows to Europe and avoid transit-dependency (Stern, Pirani, & Yafimava, 2015, pp. 3-5).

However, the construction of the South stream pipeline ended up being cancelled in 2014 due to EU pressures. This EU pressure originated in 2011, when the EU introduced the third energy package, a regulatory measure that required regulated third-party access to pipeline capacity as well as unbundling of transmission assets and certification of transmission system operators. South Stream was very affected by the first TEP rule that required the gas pipeline operator, Gazprom, to open its network to all suppliers (Stern, Pirani, & Yafimava, 2015, pp. 4-5).

Given the challenge that this presented to Gazprom and its new pipeline, the company engaged in diplomatic dialogue with the European Commission to find a way to solve the regulatory void. However, following the Ukraine crisis and Crimean annexation in 2014, relations between the EU and Russia on all gas issues got frozen, which caused a suspension of the EU-Russia working group on South Stream (Richard, 2015). This inability of the parties to negotiate, plus Western sanctions for non-compliance with TEP and continued anti-Russian rhetoric in Europe, led the Russian President, while on a visit to Turkey on December 1, 2014, announced that South Stream would not be built (Boersma, 2014).

South Stream would have had a major impact for European energy security. Apart from countries like Bulgaria, Serbia and Hungary, which would benefit a lot from their transit role, the European political debate regarded the pipeline as negative either because of the belief that the project would undermine diversification of gas supplies and reinforce Gazprom's dominance of the European natural gas market, or because of general public antipathy towards Russia and Gazprom (Stern, Pirani, & Yafimava, 2015, p. 5).

3.1.3. Challenges stemming from Russia's annexation of Crimea (2014)

Another very important event that made Europeans regard Russia's energy strategy in Europe as extremely challenging to their energy security was Russia's annexation of the Crimean Peninsula between February and March 2014. With the annexation of the territory, Russia acquired not only the Crimean land mass, but also a maritime zone in the Black Sea that has vast offshore oil and gas resources that are potentially worth trillions of dollars (Umbach, 2014; International Energy Agency, 2020).

Russia initially portrayed the annexation as a reclamation of what it considers to be its own territory, removing all the attention away from the oil and gas rush that had recently been heating up the region's economic and geopolitical discussions. However, the move had an obvious interest – the annexation of an energy rich territory and the consequent debilitation of Ukraine's energy and gas diversification strategy. Practically speaking, Russia stole Ukraine's own energy resources, which made Ukraine – and also the EU, whose energy resources depend a lot on Ukraine's transmission system – more vulnerable to Russian pressure (Broad, 2014). After the annexation, Russia helped form an illegal Crimean government to manage the territory. This government then entrusted Gazprom to manage the peninsula's energy resources. After assuming control, Gazprom immediately nationalized the Crimean branch of Naftogaz – ChornomorNaftogaz (Umbach, 2014).

With the annexation of Crimea and consequent destabilization of Ukraine, Russia strongly challenged the European energy order as it directly affected the EU's energy interdependence dynamic with Russia and Ukraine (Umbach, 2014). Marco Siddi presents a very interesting argument in this regard. He argues that Moscow's assertive stance in the last decade, particularly in Ukraine and Crimea, has provided new material for European narratives that portray Russia as a threat for European security –

being that these same narratives have had a very negative impact on current political debates about the EU-Russia gas relationship (Siddi, 2018, p. 256).

On the impact that these narratives have on current debates about EU-Russia gas relations, Jakub M. Godzimirski and Zuzanna Nowak argue that by intervening in Ukraine and annexing Crimea, Russia was regarded as an economic concern and hard security challenge, which puts at stake the very basic principles of its cooperation with Europe (Godzimirski & Nowak, 2018, p. 226). Indeed, the annexation of Crimea strengthened the way in which the EU sees Russia as a challenge to its energy security. On 21 March 2014, the European Council published a series of conclusions about the illegal occupation of the Ukrainian territory, highlighting the impact that it had on EU energy security and therefore backing efforts to reduce Europe's dependence on Russian gas through enhancement of energy efficiency, diversification of sources and development of indigenous resources (European Council, 2014). Moreover, following the annexation of Crimea, the European Commission requested a comprehensive strategy to reduce EU energy dependence on Russia, which was published on 28 May 2014. In this request, Eastern gas sources – clearly referring to Russia – were characterized as becoming too expensive and politically unbearable (de Micco, 2014, p. 5). However, this warning did not make Russia slow down its use of energy as a foreign policy tool. On 10 April 2014, Vladimir Putin wrote a letter to the leaders of the then 18 EU member-states that imported gas through Ukraine, threatening to discontinue gas supply for Ukraine's domestic consumption and clearly admitting that it could have an impact for the EU in the following remark:

“Undoubtedly, this is an extreme measure. We fully realise that this increases the risk of siphoning of natural gas passing through Ukraine's territory and heading to European consumers” (Russian News Agency, 2014).

One can conclude that the Crimean crisis and its precedents have underscored the importance for the EU to rapidly diversify its energy sources and rely less on pipelines coming from Russia to Europe through the Eastern neighbourhood. Moreover, with the gas crisis and the construction of Nord Stream, European countries that are completely dependent on Russian imports became subject to greater political pressure and higher prices (de Micco, 2014).

3.1.4. Nord Stream 2 (2015-2019)

One year after the illegal occupation of the Crimean Peninsula, in June 2015, a consortium including Gazprom, German companies Uniper and Wintershall, France's ENGIE, Austria's OMV, and Dutch/British Royal Dutch Shell, announced the construction of a new pipeline project called Nord Stream 2. Nord Stream 2 stretches approximately 1,230 kilometres through the Baltic Sea from Russia to Germany, running in parallel to the existing Nord Stream. The pipeline passes through the waters of Russia, Finland, Sweden, Denmark, and Germany. After its completion, the total capacity of the Nord Stream route will rise to 110 bcm/year, making it the main export corridor for Russian gas to Europe (Gazprom, Unknown year).

The project was planned to be complete in 2019, however, controversies surrounding its political and environmental impact in Europe have led to EU and USA sanctions towards it, which ultimately resulted in Gazprom postponing the project's conclusion (Goldthau & Sitter, 2019, pp. 10-11). Controversies emerged when project's opponents started arguing that it would consolidate Gazprom's dominance of the European natural gas market and weaken Ukraine's role as a gas transit country. In this regard, Poland, the Baltic States, Romania, and Slovakia have argued that the project will result in the loss of their roles as transit countries, create problems for their intention to diversify energy imports away from Russia, and jeopardize the fear of being bypassed by the main flows of East-West energy trade (Siddi, 2020, pp. 11-12).

Germany and Austria, in opposition, publicly support the project, and France and the Netherlands, despite not showing public support, are complying with it due to domestic corporate interests. The main argument that has been put forward by them is that Nord Stream 2 follows a supplier-customer commercial logic. Behind this logic, proponents argue, are the cheap gas prices that will compensate dwindling North Sea gas production, the meeting of increasing European demand that resulted from closure of nuclear power plants in Germany, and the need for Europe to switch to cleaner energies (Siddi, 2020, pp. 11-12).



Map 3. Nord Stream 2 route (Gazprom, 2021)

These divergence of perceptions within the EU towards Nord Stream 2 reflects this thesis' argument about an EU dual-take approach when it comes to formulating its energy (security) policy and dealing with Russia. On the one hand, the member-states that oppose the project and the European Commission itself focus on political arguments, such as the need for solidarity with Ukraine and Russia's instrumentalisation of energy as an aggressive foreign policy tool towards Europe. On the other hand, the member-states that support the project focus on economic arguments, such as the commercial potential that it has for some of Europe's biggest natural gas customers (Siddi, 2020).

The international controversy towards Nord Stream 2 and the opposition of some member-states, the European Commission and the US is justified because the project will have a negative impact on Europe's energy security. Maik Günther presents interesting arguments in this regard. According to him, the general idea that has been put forward by the project supporters that it will be 'necessary for European energy security' is false in case diversification of supply is the objective, but true in case of diversification of supply routes is the objective. Nord Stream 2 will reduce transit gas flow through Ukraine and Poland, which means declining transit revenues for them, and weakened positions in negotiations with Gazprom. Nord Stream 2 will also reduce the growth of LNG imports to Europe as it will cover the demand that was going to be satisfied by LNG. Moreover, he argues that the EU has enough pipelines and LNG terminals to import all the gas it needs without Nord Stream 2 (Günther, 2019).

Besides, one can does not forget the fact that even after being sanctioned in 2018 by the US in order to stop laying pipes, Gazprom kept doing so, which shows that Russia and Gazprom are not always willing to respect international law (Siddi, 2020).

4.1. Concluding remarks

After repeated conflicts with transit countries of Eastern Europe, especially with Ukraine in 2006, 2009 and 2014, with Belarus in 2007 and 2010, and with Georgia in 2008-2009, which resulted in the disruption of gas supplies to several European countries, Russia's natural gas export strategy to Europe started being regarded as challenging and even threatening. Additionally, Gazprom's construction of Nord Stream and Nord Stream 2 to diversify Russian export routes presented, as viewed by some European member-states and the European Commission, several political, economic and environmental consequences with high costs for Europe's energy security strategy (Heinrich, 2017, p. 62).

The 2009 Russia-Ukraine gas crisis – when the EU saw an impactful downfall in the amount of Russian gas being delivered to its member-states – served as a 'wake-up call' to the EU, and in particular to the European Commission, and to some Eastern and Central Eastern member-states of how challenging Russia could be to Europe's energy security. Although this moment marks a change in the way the EU (re)formulated its energy (security) policy to avoid dependency from Russia, one must clarify that such (re)formulation had already started in 1999, way before Russia was regarded as a challenge to European energy security – and the objective of the next chapter is precisely to analyze how the EU did so between 1999 and 2005.

These chapter analyzes how the EU did so through a 'dual-take approach' that consists of member-states that have an interest to maintain Russia's dominant position in the European natural gas market, and member-states – supported by the European Commission – that suffer political and economic damage with Russia's position and thus are against it.

Chapter II: EU's initial approach: the EU as a 'Normative Power' (1994-2003)

2.1. European Energy Charter Treaty (1994)

The European Energy Charter Treaty (ECT), signed in the end of 1994, set for the first time, the legal framework for transit, trade, and investment in energy in the European Union (U. Talseth, 2012, p. 8)

The overall idea of the ECT was that all its signatory members would be under a common regulatory framework that ensured that all energy companies – regardless of national origin – could be treated equally and fairly, therefore removing trade barriers in energy materials and products. It responded to a very concrete challenge: developing legislation that would reduce discrimination between companies, ensure transparency in trade, as well as procedures governing freedom of transit, and encourage investment (Axelrod, 1996).

Moreover, the ECT provided a framework for Western technology and financial resources to be made available in order to develop the energy resources of the East that the West largely needed. However, it would benefit both sides. Western European states needed to diversify their energy sources as well as ensure security of supply – as such, it served their interest to explore and increase production in the East. At the same time, Eastern European states would gain a lot, from the economic point of view, with new investments from the West in their energy sectors (Axelrod, 1996, p. 498).

Although the ECT had a regional character aiming at creating a model of West-East energy governance, it was also developed with Russia in mind since it was an important energy player for the EU. By the time it was developed, Russia faced several issues: production and consumption had declined, it needed hard currency and to increase its exports to the West, and one-third of its gas was being lost in transit also because of its complicated relationship with Ukraine. Being a full member would have allowed Moscow to tackle these issues and become more in line with the EU energy market (Axelrod, 1996, p. 498)

The development of the ECT came at a time when the European Commission was pushing towards deeper political and economic integration and creating an internal energy market was an essential part of that integration process. The creation of this market meant that common practices and standards would be the norm – and one of these practices was to allow third party access (TPA) to another state's transmission pipelines (Jaś-Nowopolska, 2010). This was a big issue for Russia.

Russia was key to the success of the ECT as it had vast gas resources all over its territory and in the Caspian Sea. However, the European Energy Charter failed to have Russia ratifying it, which meant that Russia was not legally bound by the Charter. Russia did so because the Charter's provisions regarding third-party access to pipeline systems would put at stake Russia's authority over its pipeline monopoly in the EU, as well as who could get or not get access to it (U. Talseth, 2012, p. 8).

The ECT represents a clear example of the EU behaving as a normative power. According to *Goldthau* and *Sitter*, with the normative model comes the idea of “the EU creating binding international rules that serve to level the playing field and benefit everyone – which in the energy sector includes net importers (like the EU) and exporters (like Russia)”. That is what the ECT did by developing an Eurasian regime that would regulate energy trade, transit and investment (Goldthau & Sitter, 2019, p. 4).

2.2. First Energy Package (1998)

The ECT represented a step towards a more regulated European energy market as it promoted common standards and practices to be incorporated into the energy sectors of its signatory members. However, as we could see, the ECT was not successful because it failed to incorporate, in its ratification, the most important key player for EU energy security in the gas sector – Russia. With this failure, the EU started thinking about a new strategy to regulate energy trade and to push for further liberalization of the energy market¹⁵ – a strategy that would be still in par with the ECT, but that would have a slightly bigger regulatory character. That is how the First Energy Package emerged in the late 90s (U. Talseth, 2012, p. 13).

The Package introduced two new directives whose objective was to open European electricity and gas markets to free competition by breaking up existing monopolies and opening the markets to new participants (European Parliament, 2020). In order to do so, the Package adopted two liberalization directives: one for the electricity market in 1996 and another for the gas market in 1998. The gas Directive 98/30/EC or ‘First Gas Directive’, which is more important for this dissertation, had to be transported into member-states’ national law by 2000 (European Parliament, 2020).

The First Gas Directive introduced a binding procedure for all member-states that until today is of the utmost importance for the EU's energy (security) policy – the procedure of unbundling. This process has the objective of separating activities of energy companies that are potentially subject to competition (namely production and supply of energy), from those where competition is not possible or allowed (namely transmission and distribution/ retail of energy¹⁶). As a result of the unbundling process, companies operating in the EU energy market are not allowed to produce and supply natural gas while

¹⁵“The legal basis of the liberalization and harmonization of the EU internal energy market are Article 194 and Article 114 of the Treaty on the Functioning of the European Union (TFEU).” The aim of the liberalization is to create one single integrated internal European energy market across all EU member states and therefore reduce general energy costs and create synergies to strengthen security of supply (Next Kraft-werke GmbH, 2020).

¹⁶In the EU, transmission and distribution of gas are regulated monopolies (Florence School of Regulation, 2020).

at the same time managing the transmission and distribution networks (Florence School of Regulation, 2020). There are several types of unbundling: account unbundling, functional unbundling, legal unbundling, independent system operator, and ownership unbundling. In the case of the First Energy Package's gas directive, only accounting unbundling was required. This kind of unbundling mandates vertically integrated companies (the ones that concentrate all the types of activities) to split up the bookkeeping according to the different activities. Furthermore, the directive also provided that member-states must have access to this accounting, and that they were required to ensure that transmission system operators did not disclose confidential information to other parts of a vertically integrated undertaking or to third parties (Next Kraft-werke GmbH, 2020; Florence School of Regulation, 2020).

At the time when the First Energy Package was established, most of the national natural gas companies were still publicly owned or controlled for reasons of national economic or political interest, and a change was needed. As such, the EU started adopting energy market regulation that shifted the political attention from market liberalization to market integration. The First Energy package laid down some important legislative bases for the EU's energy (security) policy (European Parliament, 2017, p. 17).

Another very important legislative fundamental that was promoted in the Package's 'First Gas Directive' was the idea that member-states now had the right to require the owners of gas pipelines to allow third parties to use their pipelines under regulated conditions, or to require them to negotiate individual contracts with third parties. This was the concept of regulated third-party access and negotiated TPA, respectively – a concept that had already been defined and established in the ECT. TPA was a clear example of the EU's attempt to push for market liberalization and to develop an harmonized set of rules for the EU's gas transmission infrastructure (Hancher & Marhold, 2019, p. 291).

It was clear that through liberalization, the EU wanted to eliminate all rules and measures adopted by member-states that were used to excuse and retain competition barriers. As such, the EU's idea was nothing else but creating and protecting competition in the European energy market (Rokas, 2009). However, accounting unbundling was not enough to create a competitive market and unbundling is, still today, an unfinished and necessary measure to be fully incorporated into the EU's energy (security) policy (U. Talseth, 2012).

2.3. EU-Russia Energy Dialogue (2000)

Two years later, the European Commission decided that it was time, once again, to find a way to deal with the growing Russian role in the EU's gas market. As such, the EU-Russia Energy Dialogue was launched at the sixth EU-Russia summit in Paris, with the objective of resolving questions of common interest that were relevant to the energy sectors of the EU and Russia and that remained unsolved after the Russian non-ratification of the ECT. In this regard, both actors were aiming at a strengthened energy security, one from the position of an importer and the other one of an exporter. Moreover, Russia's interests included attracting new investments and secure markets while the EU was eager to move towards a legal regime that would govern the Russo-European energy trade (U. Talseth, 2012, p. 3).

And using the EU-Russia Energy Dialogue as a lever to start creating a stable legal regime between both actors was exactly what the EU wanted. Ferran Tarradellas Espuny, spokesperson for Energy Commissioner Piebalgs when the Dialogue was established, made that clear by stating that it would enable "progress to be made in the definition of a EU-Russia energy partnership" (Espuny, 2009, p. 8).

This was both the first EU energy (security) policy dialogue established with an external energy partner and the first sectoral dialogue with Russia. Russia, as the EU's most important single supplier of energy products, especially in what regards natural gas, was therefore the most obvious choice for the EU's first external initiative to strengthen energy cooperation. Moreover, the EU had already started engaging with Russia in this sector, when in 1999 made it the first proponent of the EU's "Common Strategies" developed under the Amsterdam Treaty (European Commission, 2011).

For the EU, this was a first step in binding Russia and the EU into a closer relationship in which all issues of mutual concern in the energy sector could be addressed, and all the policies of market integration could be pursued, therefore enhancing the energy (security) of the EU (Espuny, 2009, pp. 8-9).

This was a clear example of Goldthau and Sitter's idea of the EU behaving as a normative power. Initially through this Dialogue and later through a partnership, the EU was binding Russia into a closer energy relationship with the EU, which Goldthau and Sitter called a "regime" that would regulate EU-Russia energy relations. At the same time, by defining improvement of investment opportunities in Russia's energy sector as the main objective of the Dialogue, the EU was signaling the idea of mutual

benefit and attracting a global energy player like Russia, and creating conditions to commit it to international energy law (Goldthau & Sitter, 2019, p. 13)

Moreover, the dialogue was a very supranational way of the EU dealing with international energy relations: “it resulted from a European Commission-led project for liberalizing the energy market in the 1990s – which drew widespread initial criticism from the member states because it challenged interventionist energy policy and the role of national champions in the electricity and gas sector“ (Goldthau & Sitter, 2019, p. 4).

19 years on, the Dialogue remains impotent, without a clear mandate or any achievements to its name. This happened due to a main reason: Russia wanted to focus on sections of the economy rather than integrating the European energy market, which was the goal of the European Commission (U. Talseth, 2012, p. 4). Besides, the actors that had established the Dialogue and wanted it to work successfully, were not the ones making the decisions that really affect the governance of EU-Russia energy trade. From the Russian side, the Dialogue was defined by the Ministry of Energy, and from the EU side, it was defined by EU Officials. However, the only ones that could make it work were, from the Russian side, government representatives in Gazprom, and from the EU side, national governments of the 27 member-states (U. Talseth, 2012, p. 7).

2.4. Second Energy Package (2003)

By September 2000, most member-states had already implemented the gas directive that was brought by the First Energy Package. However, the European Commission considered that the progress that was achieved by member-states towards liberalization was still insufficient to achieve the Commission’s great goal of a consolidated energy market – and again, it cannot be forgotten that achieving this was an essential step towards a common EU energy (security) policy (Jegen, 2014, p. 7).

Thus, the Second Energy Package was proposed to fill this void and successfully complete the electricity and gas markets (Rokas, 2009). The Package, which was adopted in 2003, brought two directives (directive 2003/54/EC for electricity and directive 2003/55/EC for gas, which was known as the ‘Second gas Directive’ and came following the first one) and one regulation (regulation (EC) No 1228/2003) (Florence School of Regulation, 2020). According to the European Parliament and the Council of the European Union, the objective of the Second Energy Package was to keep liberalizing and unifying the European internal energy market. Such, they argued, would be done by:

“[...] creating conditions more conducive to genuine, fair competition and to put in place a true single market” ; and by “[...] taking the measures necessary to attain clearly defined objectives such as to protect vulnerable customers, to protect consumers’ fundamental rights and to promote economic and social cohesion” (Official Journal of the European Union, 2003).

This meant that by 2007, all industrial and domestic consumers should have the ability to choose their own gas suppliers freely. Moreover, member-states’ gas companies were now subject to full legal unbundling between gas transmission and commercial activities; member-states also had to ensure the implementation of the TPA system to the gas transmission and distribution system, as well as to LNG facilities. Finally, it was now mandatory for member-states to establish national energy regulators (NRA) whose operations would follow minimum requirements defined by the EU. With the objective of ensuring a common functioning of the NRAs at the European level, the EU also created the European Regulators Group for Electricity and Gas (ERGEG) (Official Journal of the European Union, 2003, Katsis, 2013, p. 6).

The new provisions aimed at improving competitiveness and developing service quality, at guaranteeing fairer prices for consumers, establishing obligations on public services and strengthening security of supply (Rokas, 2009). However, due to the lack of regulatory framework, especially in the market of renewables, and to the incorrect implementation of regulation by public and private companies, the desired progress towards a common energy policy was not achieved (Rokas, 2009). In what regards the specific issue of incorrect implementation of regulation, was particularly negative the fact that a transmission system operator and a gas wholesaler still could be owned by a single holding company, which meant they were still able to operate in different activities of the natural gas value chain at the same time – and this was nothing more than an uncompetitive practice (Next Kraft-werke GmbH, 2020).

2.5. Concluding remarks

During the 2000s, the European Commission attempted to consolidate its internal energy market in order to achieve the goal of a common energy (security) policy. This consolidation was promoted through the creation of market liberalization rules that were present in the ECT and the First and Second Energy Packages.

The First Package's gas directive brought the concept of accounting unbundling, which represented the Commission's first attempt to break with national and regional monopolies, a necessary condition for a truly unified European energy market (Jegen, 2014). Additionally, it also deepened the ECT concept of third-party access, which gave member-states the right to require the owners of gas pipelines to allow third parties to use their pipelines under regulated conditions (Hancher & Marhold, 2019). However, accounting unbundling was not enough for breaking up with vertically integrated gas monopolies that controlled prices on the wholesale market. As such, the Second Package's gas directive tried to fill this void and established the concept of legal unbundling which went further by separating commercial activities from transmission system activities. Moreover, the second gas directive also deepened the third-party access concept by making its implementation mandatory in member-states' transmission and distribution systems, as well as LNG facilities (Rokas, 2009, Katsis, 2013).

But more energy (security) policy related activities within the EU proliferated in the 2000 and as we could see, the EU-Russia Energy Dialogue was one of them. Contrarily to the Packages and the ECT, the Dialogue had a more bilateral and regional character as it was particularly directed to Russia and its objective was to basically solve issues of mutual concern in the energy sector and create a model for cooperation based on common practices – the EU was trying to bind Russia to its will (Jegen, 2014). However, the Dialogue, as well as the ECT, failed in their objectives of integrating Russia. In this regard, the Packages were far more efficient due to their legal, binding character (U. Talseth, 2012).

The 2000s was a period of strengthening the internal dimension of the EU's energy (security) policy and the European Commission was the main actor in this regard, behaving almost as a supranational actor (Jegen, 2014, p. 4). Furthermore, as we could see, with the Packages, the ECT and even the Dialogue, the EU Commission behaved as a normative power as it used regulations to build and manage its internal market, while at the same time creating binding international rules to level the playing field and benefit everyone, including Russia (Goldthau & Sitter, 2019, pp. 3-4). Moreover, during this period the EU Commission also became more vocal about the need to strengthen the external dimension of its energy (security) policy. In this regard, the 2000 Green Paper refers to geopolitical issues in the Middle East and to the fact that the EU lacks the powers and means to "negotiate and exert pressure" (Jegen, 2014, p. 8).

Chapter III: EU's changing approach: The EU as a Regulatory Power (2006-2014)

3.1. EU response to Russia's growing challenge (2006-2009)

The 2000s were definitely a period in which the EU focused on the development of its energy (security) policy. During the first half of this period, the EU took several strategic actions with the objective of creating a cohesive internal energy market – which, as we could see, it successfully did through a global approach that did not forget Russia. Nevertheless, the second part of this period was

characterized by a greater focus on the external dimension of the EU's energy (security) policy, rather than the internal (Jegen, 2014, p. 7).

In 2006, the European Commission made that clear when it stated that:

“The energy challenges facing Europe need a coherent external policy to enable Europe to play a more effective international role in tackling common problems with energy partners worldwide [...]. It would be a break from the past, and show Member States' commitment to common solutions to shared problems” (European Commission, 2006).

The emergence of this EU desire to put a greater focus on the external dimension of its energy (security) policy emerged because of the Russian cut-off of gas deliveries to Ukraine in 2006. This incident showed all Europeans how vulnerable Europe was with regards to energy supply and infrastructure. This feeling of vulnerability to gas shortages in Europe helped to integrate the external dimension into the debate about the EU's energy (security) policy (Jegen, 2014, p. 8).

3.1.1. European Energy Community (2006)

Although from 2005 onwards the EU switched its focus to the development of the external dimension of its energy (security) policy, there was an event in 2006 that was characterized by another EU attempt to finally consolidate its internal market before moving forward – the European Energy Community (Poiană, 2017).

The Energy Community aimed at finishing creating an integrated European market for gas and to establish a regional energy market that would be compatible with the internal energy market of the EU (Poiană, 2017, pp. 179-180). Moreover, the creation of the Energy Community marked a new stage on the EU strategy to formulate its energy (security) policy. While before it was doing so by using normative power, now it had switched to the use of regulatory power. Differently from the normative power, which was based on the creation of rules and norms to create a regulatory regime for its energy (security) policy, the regulatory power had the same rationale, with just one difference: now the EU was creating a regulatory regime in a way that would favor itself – which means that it was now using regulations to pursue its own interests (Goldthau & Sitter, 2019, pp. 5-6).

We can see that the Energy Community represents the use of this kind of power because when it was created, it immediately affected the setup of some countries' energy-sector governance. For instance,

after non-EU countries in the Balkans and Ukraine joined the Energy Community, they had to mandatorily accept EU energy-market rules. According to Goldthau and Sitter, this was the price they paid for being integrated more closely with the EU energy market (Goldthau & Sitter, 2019, p. 6).

Furthermore, one can also see that the Energy Community represented the EU using its regulatory-power approach because it was requiring third actors – now not just producers, but also transit countries – to adapt and adhere to the EU's rules and regulations, thus pursuing domestic (EU) consumer benefit. Besides, now the EU was also passively using power by demanding third actors to accept EU-rules in case they wished to export to the EU (Goldthau & Sitter, 2019, p. 6).

Regardless of the conditions that it imposed on members, the Energy Community increased the security of supply of the EU as by extending the European energy *acquis communautaire* to neighboring countries, the EU was ensuring stable and predictable regulatory frameworks for the development of energy markets and for providing stable conditions for the necessary investment in hydrocarbons. Still, these kinds of measures were already in place when the 'energy security debate' started gaining shape in late 2005 (Natorski & Surrallés, 2009, p. 77).

3.1.2. Green Paper: “A European strategy for sustainable, secure and competitive energy” (2006)

With the emergence of the 'energy security debate' in late 2005 – and with its deepening after the Russian gas cut-off to Ukraine in 2006 – the EU realized the urgent need to shift its strategy towards the development of a common external energy (security) policy. Besides, the EU also realized that it needed to focus on other significant issues, such as climate change and its dependency on imported natural gas from Russia (Poiană, 2017).

This strategy shift can be observed in the 2006 EU Green Paper. It aimed not only at completing the European gas market, at creating greater solidarity between member-states to develop a more diverse energy mix, and at creating a common approach to tackle climate change, but also, and most importantly, at establishing a coherent external EU energy (security) policy (Poiană, 2017, p. 179).

In this regard, the EU states in the Green Paper that:

“A coherent external policy is essential to deliver sustainable, competitive, and secure energy”
(European Commission, 2006).

This statement was nothing less than a EU request for the development of the external dimension of its energy (security) policy in order to avoid disruptions to natural gas supply, like the one that happened to Ukraine in that same year (Jegen, 2014).

Additionally, this policy stated that the best way to achieve energy security was the following:

“[...] to create a “pan-European energy community, a common regulatory space around Europe” (Poiană, 2017, p. 180).

This statement goes in line with Goldthau and Sitter’s argument that from the Energy Community onwards, the EU did not just start focusing the external dimension of its energy (security) policy, but is also engaged in a new form of energy (security) policy-making which was based on the creation of a regulatory regime that would favour itself – and that is precisely what the European Commission was doing in the 2006 Green Paper since one of its main objectives was to deal with external players (like Russia or Ukraine) that had a direct impact on the European energy market (Goldthau & Sitter, 2019).

Nevertheless, the Green Paper also had another objective. According to a statement from Energy Commissioner, Andris Piebalgs, before the policy was launched:

“[...] the issue of security of energy supply is only really considered at national Member State level; but in reality we need a much greater European-wide approach on this issue” (Piebalgs, 2006).

As such, the Green Paper was also a reaction to member-states’ divergence of energy views due to their differences in what regards import dependence (Maltby, 2013, p. 439).

However, the scope of the Green Paper was just a ‘soft law’ instrument that could not lead to binding implementation of the discussed measures. Besides, its scope was just to initiate discussion on specific topics and encourage discussions between different actors (Poiană, 2017, p. 180). In this regard, the European Parliament argued that the Commission’s Green Paper was too general and neither proposed new specific targets to member-states, nor advanced concrete proposals that responded to the recent call for the development of a common energy (security) policy (Natorski & Surrallés, 2009, p. 78).

3.1.3. First Strategic Energy Review: “An Energy Policy for Europe” (2007)

In January 2007, the European Commission decided that it was time to change and to address calls that had been done in the years before, as the ones made by the European Parliament after the launch of the 2006 Green paper. Additionally, new challenges, such as climate change, but also resurfacing of old ones, such as security of supply, or increasing global competition, triggered a new way of thinking which resulted in the official first-generation EU energy (security) policy entitled: ‘An Energy Policy for Europe’ (Pedersen, Behrens, & Egenhofer, 2008).

This new EU integrated climate and energy policy, as proposed by the European Commission, had the main objectives of completing the internal energy market, ensuring security of supply, reducing greenhouse gas emissions, and enhancing the EU’s ability to speak about energy on the international stage, which meant developing an external dimension of the EU’s energy (security) policy (European Commission, 2007).

In this regard, the European Commission President by then, José Manuel Barroso, publicly stated in January that the Commission wanted to lead the framing of the EU’s energy (security) policy and be its voice on the international stage:

“A common European response is necessary to deliver sustainable, secure and competitive energy. The proposals put forward by the Commission today demonstrate our commitment to leadership and a long-term vision for a new Energy Policy for Europe” (Barroso, 2007).

Months later, in March, the Council of the EU approved and endorsed the Commission’s proposal for a new energy (security) policy for Europe. However, the Council discussions for the policy were framed more in terms of its internal dimension, rather than external as the Commission and Parliament would have enjoyed (Natorski & Surrallés, 2009, p. 81).

Actually, during the Council debate most member-states made clear that they wanted to keep their competencies in determining their national strategies for security of supply. In this context, Portugal argued that member-states should have the right – according to the principle of subsidiarity – of deciding the best way to implement energy policies according to their specific situations. Germany shared the same opinion and argued that the choice of energy mix, as well as compliance with the

legal framework should remain a responsibility of the member-states (Natorski & Surrallés, 2009, p. 82).

Still, one must mention that, for example, Belgium or Italy argued for a community-focused dimension of the energy (security) policy. Italy showed concern about the lack of a legal basis for more integrated energy policies, which would make energy a shared competence between the Commission and member-states. Belgium, in its turn, argued that the time had come to boost Europe's influence in the energy sector. Still, they were a minority, and their will were not incorporated in the Council's Energy Action Plan (Natorski & Surrallés, 2009, p. 82)

However, although the Council's action plan did not adopt any measures proposed by the Commission and Parliament in what regards giving the EU a stronger voice on the external dimension of its energy (security) policy, a remarkable decision was made towards security of supply. It was agreed to establish response mechanisms that would face the eventuality of an energy cut-off, as it had happened before (Council of the European Union, 2007, p. 18)

Moreover, the Council agreed on full implementation of the Internal Energy Market, on the objective of 20 percent of the overall energy mix in 2020 to be from renewable energy sources and stressed the relevance of energy efficiency in order to reduce energy consumption in 2020 by 20 per cent (Council of the European Union, 2007, p. 21)

Despite significant progress, the Council of the European Union dismissed the more ambitious proposals of the Commission and the Parliament. As far as giving an external dimension to the EU's energy (security) policy, no developments were made due to the reluctance of some member-states of putting at stake their national energy interests, like Germany. As for a greater regulatory power of the EU, creation of a Commission-proposed EU regulatory agency was not considered (Natorski & Surrallés, 2009, p. 83).

In summary, progress was made in terms of finalizing the internal market and improving security of supply, but nothing was done towards defining the EU as the most appropriate actor to tackle energy related problems. This was due to the fact that the concept of 'energy security' was framed in such a way that member-states were reluctant to transfer competencies to the supranational level and to increase the level of intergovernmental cooperation with the EU (Natorski & Surrallés, 2009, p. 83).

3.1.4. Communication from the European Commission: “A Strong European Neighbourhood Policy” (2007)

Still, the European Commission did not give up on its mission to lead the development of the EU's energy (security) policy. As such, it needs to be noted that in December 2007, following the failure of the Commission's initiative Energy Policy for Europe (earlier in that year) in creating an external dimension for the EU's energy (security) policy, and on giving the Commission an energy leadership role, the Commission and the Parliament remembered the EU of the role that the ENP could have in this regard as they launched a renewed ENP strategy entitled as 'A Strong European Neighbourhood Policy' (European Commission, 2007, Gotze, 2017).

This policy followed up on what was one of the Commission's most important geostrategic tools for achieving European energy security, the ENP and intended to set the Commission's energy strategy towards its vicinity for the year to come (European Commission, 2007).

In this regard, in the document it can be read the following:

“Energy security and safety are fields of growing interdependence in the neighbourhood. By adopting an energy package in March, the European Council set the stage for a common external energy policy. The ENP brings together producer, consumer and transit countries, which have much to gain from closer cooperation and integration.” As such, “A feasibility study will be undertaken to examine the potential benefits of putting in place a common legal framework for the neighbourhood in the field of energy” (European Commission, 2007).

Clearly, when the Commission refers to examining “the potential benefits of putting in place a common legal framework for the neighbourhood in the field of energy”, it is saying that the it its of the EU's interest that these countries – which have a great energy role for the EU, either as producers or transit countries – must incorporate the EU *acquis Communautaire* in the energy field in order to decrease their dependence on Russian natural gas and integrate the EU's energy market (Kempe, 2007).

However, in its turn, Russia also has a strong interest in the energy potential of its European neighbourhood – actually, controlling it is of the utmost importance for the Russian energy strategy towards the EU as we already demonstrated above (Kempe, 2007, p. 190).

As such, through the ENP and its successor, the Commission has been trying to extend the internal energy market to neighbouring countries. Still, these attempts were almost useless as back then there was still the problem of inconsistency within the EU internal energy market. Besides, member-states had different energy objectives towards different EU neighbouring countries. This resulted in the creation of bilateral alliances that in their turn provided neighbouring countries with the argument of not being able to commit to EU core energy provisions as they would overlap (Weber & Bafoil, 2015).

Still, engaging with neighbouring countries that were of the interest of the EU from the energy point of view and exporting *acquis communautaire* was a way that the Commission adopted in order to have an external voice in the international energy arena. In this regard, by doing so the Commission wanted to create a pan-European area that integrated and subjugated to EU rules all neighbouring countries that were of utmost importance for the EU's energy (security) policy (Andoura & Vinois, 2015, p. 11) This goes in line with Goldthau and Sitter's idea of the Commission behaving as a regulatory power by using regulation to build and manage the European energy market in a way that favors itself (Goldthau & Sitter, 2019, p. 5).

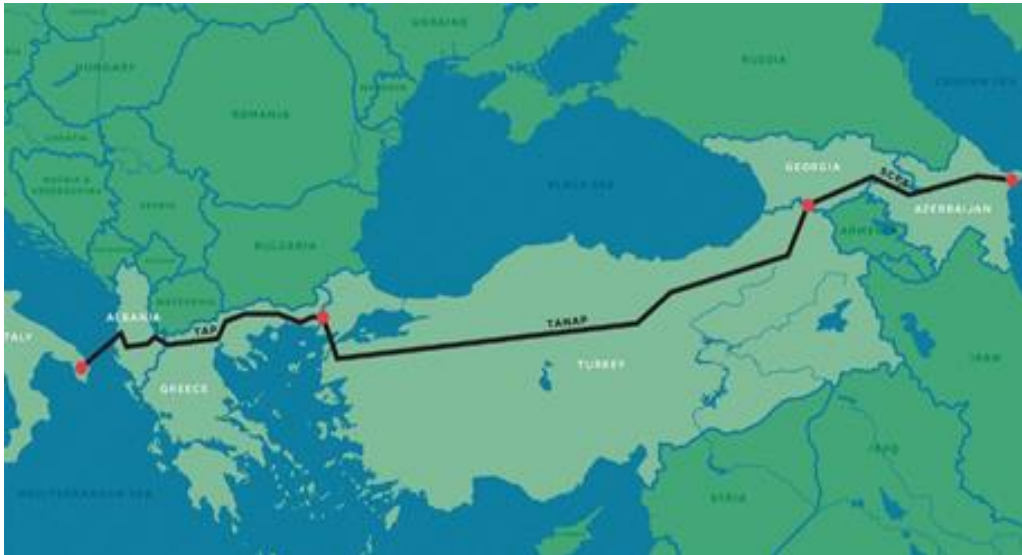
3.1.5. Second Strategic Energy Review: “An EU Energy Security and Solidarity Action Plan” (2008)

European Commission led strategies like the above analyzed ‘Strong ENP’ have failed to succeed because of divergent strategies between member-states and also because of their different degrees of natural gas import dependency towards main suppliers like Russia. This has been one of the main problems through the development of the EU's energy (security) policy (Maltby, 2013).

The Commission firstly tried to tackle this problem in 2006, through the Green Paper. Still, it was not very well succeeded as it was too general in its objectives. As such, two years later, the European Commission launched an ‘EU Energy Security and Solidarity Action Plan’ whose one of its main objectives was precisely to tackle this long present issue of member-states inconsistency (Maltby, 2013, p. 439). The attempt to pursue this objective can be read in the Commission's Action Plan:

“[...] interconnection and solidarity within the internal market is not only a natural feature of an integrated market-based system but is equally essential to spread and reduce individual risk” (European Commission, 2008).

Still, the main and most impactful announcement of the Commission's Action Plan was not to tackle the inconsistency issue, but to build the Southern Gas Corridor (SGC). The SGC, which intended to bring central Asian and Middle Eastern gas to European markets, marked a new stage in EU energy (security) policy-making: the emergence of a more consistent external dimension and a shift from a purely market-oriented approach to a more geopolitical one (Verda, 2016, p. 69)



Map 4: Southern Gas Corridor route (Bankwatch Network, 2021)

It was obvious that in order to demarcate itself from Russian gas dependency, the EU did not just need a consistent internal market, but, above all, a geopolitical strategy based on creating infrastructural connections with new suppliers. Moreover, it was a known fact that fossil fuels were to remain the backbone of EU energy supply, as such member-states and the EU itself decided that the EU's energy (security) policy had to assume its external dependency problem and find a solution to it (Verda, 2016).

Still, not only the SGC emerged as a possible solution to the EU's external energy challenge, but also as a response to the growing energy security challenge in light of the Russian gas cut-off to Ukraine in 2006, the interest of many Western companies (namely BP, Total, Statoil and Devon Energy) in gas supplies from the Caspian region (namely Azerbaijan, Iran, Iraq and Turkmenistan) and the US pressure on the EU to create a geopolitical East-West pipeline running from Central Asia through the Caucasus and Turkey to Europe (Jarosiewicz, 2015, p. 9).

The SGC followed the same rational as other EU-supported project that intended to reduce dependency on Russian gas: Nabucco gas pipeline, the Turkey-Greece-Italy (ITGI) route and the Trans-Adriatic Pipeline (TAP) (Jarosiewicz, 2015, p. 9).

In political terms, the objective of the SGC was to bring the EU closer to the Caucasus and Turkey, as well as creating energy relations with both. In this regard, the Commission had planned to use the SGC as a gas pipeline controlled by Western firms and managed by EU law. Moreover, the EU wanted to interconnect various gas supplying sources such as Iran, Iraq and Turkmenistan to the supply line in an unrestricted manner. All this with the objective of promoting diversification of supplies and promoting the energy security of Southern and Central European countries, thus reducing their dependence on Russian gas (Jarosiewicz, 2015, p. 10).

Despite the SGC marked a new and different commitment from many EU member-states to the EU's energy (security) policy, the European Commission would years later discontinue the project due to the cancellation of the Nabucco gas pipeline in 2012 – which was the flagship project of the SGC –, the emergence of several commercial and financial setbacks, and its direct competition from a project that would also years later be announced by Gazprom: the South Stream (Poiană, 2017).

3.1.6. Lisbon Treaty (2009)

Despite the failure in building the Southern Gas Corridor, the European Commission did not give up and continued – as it had been doing since the 90s – in showing remarkable leadership towards the establishment of a common energy (security) policy and/ or an EU external leadership. And although this leadership has not resulted in major achievements, small but very important steps have been taken (Natorski & Surrallés, 2009).

Some of these most important 'small steps' were made in the Lisbon Treaty, in 2009. The Treaty incorporated for the first time an energy title on 'Energy Policy' – something that the European Commission had been pursuing since 1990. The Title, which corresponded to the Treaty's Article 4 set out a co-decision (ordinary) legislation procedure and established a shared competence between the EU and the Member-States in the governance of EU's internal energy market, of trans-European networks, and, most importantly, on energy matters (Maltby, 2013, p. 440). The 'shared competence' concept was a considerable achievement because the member-states were no longer able to exercise authority when the EU had done so (Jegen, 2014, p. 8).

The achievements of Lisbon Treaty also included its article 194, a solidarity energy clause aimed at ensuring the functioning of the internal energy market, the security of energy supply in case of external energy disruptions like the ones the ones in Ukraine that had an impact of the EU's natural gas supplies and promoting the interconnection of internal energy networks (Maltby, 2013, p. 440).

However, one could not get deluded with these measures as it was also established that they should not affect the member-states' right to determine the conditions for exploiting their energy resources, as well as their right to define their own energy mix. Additionally, in regard to the 'solidarity' concept, it was too vague and did not have a binding character. In regard to the co-decision procedure, the European Commission did not have an integral role in it, and intergovernmental cooperation and national preferences were still the most impactful and leading factor of the decision-making process (Maltby, 2013, p. 440).

Despite the critics, the truth is that the Lisbon Treaty brought nothing less than accomplishment in what regards giving the EU more competences on energy (security) policy. Actually, the three dimensions that the EU had been advocating since the 90s – internal market, environment and external relations – were now finally materialized in this Treaty (Jegen, 2014, p. 8).

Still, the long-discussed in this dissertation EU dual-track approach was present in the way member-states viewed the Lisbon Treaty. Germany, for instance, subscribed to the spirit of solidarity invoked by the Treaty when it came to assist Central and Eastern Europe member-states that were subject to supply disruptions with a Russian origin. However, Germany circumscribed it when it came to the funding of infrastructures, as pipelines, arguing that it was "private companies' business: firms should take the profits but also bear the risks" (Jegen, 2014, p. 14).

The Lisbon Treaty was remarkable in its accomplishments as for the first time it established energy as a shared competence and was even able to promote an external energy (security) policy dimension – the one of solidarity in case of disruptions. Still, Germany's stake on this was clear and as one of the most influential EU players on energy matters, one knew that the EU still had much to do¹⁷.

¹⁷Brussels, 10 January, 2020. Interview with an anonymous researcher from a European think tank.

3.2. EU response to 'Russia's Europeanisation from the East'

In addition to the future work that the EU had to put to develop an energy (security) policy, Russia engaged on a series of energy disputes with Ukraine, Belarus and Georgia between 2006 and 2010, which directly affected the natural gas supplies of some EU member-states, especially Central and Eastern European ones, making the EU's task even harder (Pirani, Stern, & Yafimava, 2009). Consequently, these states started feeling more vulnerable to Russian pressure and the EU started seeing Russia as its biggest geopolitical rival. Still, at the same time, the EU needed Russian gas and Russia also needed the revenue coming from European gas purchases (Popovic, 2020). Aware of this complex sweet and sour relationship, the EU needed to develop a strategy that addressed the dependence on Russian gas and the growing security threat that it presented for the Union's energy market (Popovic, 2020).

3.2.1. The Third Energy Package: The Natural Gas Directive and Regulation (2009)

In 2009 the EU adopted the so-called third energy package (TEP) which contained two Directives and three Regulations. Among these directives and regulations are particularly important the gas Directive 2009/73/EC and the Regulation (EC) No 715/2009. Through these directive and regulation, the TEP intended to pursue the aim of further liberalizing and integrating the European internal energy market, as well as defining conditions for access to its gas market (Florence School of Regulation, 2020).

The latter was particularly important as it placed stricter demands than ever on energy companies operating on the EU's territory – as it was Gazprom's case. Actually, the changing legal environment brought by them caused a great resentment in Russia and its state-owned energy company (Stern, Pirani, & Yafimava, 2015, p. 3). The first main reason of this resentment was TEP's requirement that the operators of transmission networks (like Gazprom) had to allow any gas supplier non-discriminatory access to their transmission networks, so that this third parties could also supply European customers; this legal requirement was the third-party access principle (European Commission, 2011). The second reason for Russia's resentment was that TEP now mandated unbundling of transmission networks and certification of transmission system operators (TSOs), unless an exemption from these rules was granted by an NRA and approved by the European Commission (Stern, Pirani, & Yafimava, 2015, p. 3). This unbundling rule prevented companies which were involved both in transmission and production/supply of natural gas (again, like Gazprom) from controlling all these segments at the same time and

as such, of using their privileged position as operators of transmission networks to obstruct access of their competitors to this same network (European Commission, 2011).

However, due to the national interest of some EU member-states in Gazprom maintaining its dominant position – namely Germany and Italy – these provisions were weakened. Still, even these weakened provisions posed some serious challenges to Gazprom's dominant position. The reason was that they were complemented by some other bold measures¹⁸. For example, the TEP also forbade companies outside the EU from purchasing strategic distributed networks without first being authorized by the governments of EU member-states, which in turn had to consult with the European Commission (U. Talseth, 2012, p. 13).

Moscow perceived this measure as an EU direct effort of protecting itself against Russian dependence and named it as the "Gazprom clause". As a result, there was a direct stand-off between Moscow and Brussels, with neither of them willing to step back (U. Talseth, 2012, p. 13). As a result, to the present day, the TEP and the ECT remain the two main legal documents regulating the Russo-EU energy trade (U. Talseth, 2012). Still, the fact that such a bold EU Commission-led legal package like the TEP was seen as 'not necessary' by member-states like Germany alert us once again to the EU dual-track approach when it comes to energy (security) policy-making. Furthermore, the TEP represented a clear EU direct attempt to require a specific third actor, Gazprom, to adhere to the EU's energy provisions – this, in case Gazprom wanted to keep exporting its gas to the EU's market¹⁹. Actually, it was so directed at Gazprom that Moscow itself defined TEP's article 11 on 'security of supply risks' as "Gazprom clause". This kind of EU approach, presented and analyzed, above, is regarded as 'EU Regulatory Power' (Goldthau & Sitter, 2019).

Regardless of its clear objective of targeting Russian dominance over the EU natural gas market, one must also clarify that the TEP was one of the most complete EU legal documents governing energy affairs. This because it went way further liberalizing the EU natural gas market structure, or even defining the main lines of access to the EU's gas market²⁰. The TEP established the European-wide network codes (NCs), a regulatory framework to support a single European Market; it established the

¹⁸Brussels, 10 January, 2020. Interview with an anonymous researcher from a European think tank.

¹⁹Brussels, 7 February, 2020. Interview with an anonymous officer from the permanent representation of an EU-member-state.

²⁰Brussels, 7 February, 2020. Interview with an anonymous officer from the permanent representation of an EU-member-state.

Agency for Cooperation of Energy Regulators (ACER), an European agency with the objective of enhancing energy competition; it introduced an obligation for member-states to define vulnerable consumers; it granted energy consumers the right to switch energy providers and to receive clear offers, contracts and energy bills; and it set out obligations on suppliers with respect to the conditions that supply contracts should respect (European Parliament, 2017).

3.2.2. The (absence of a) response to Nord Stream (2011)

After such an ambitious step like the TEP, clearly directed at struggling against Gazprom's dominance, the 2011 EU decision on supporting the construction of Gazprom-led project Nord Stream came as a surprise. The EU publicly showed a clear interest in the execution of the project, as did Germany; but again, the will of some other member-states was not considered, pointing out to the EU's dual-take approach when it comes to decision-making on energy affairs (Whist, 2008). On the one hand, Germany was one of the countries with a strongest interest in the execution of the project. Berlin argued that its interest in it were based on a desire for energy security and to avoid possible disruptions in transit countries like Belarus or Ukraine. The German Chancellor Schroeder actually pushed for the conclusion of the deal, and after leaving office even took a position as chairman of the supervisory board of Nord Stream (European Commission, 2007, p. 3) Also Finland showed its political support for the project. On this matter, Finnish Prime Minister argued that such a project was in the interest of the Finish strategic partnership with Russia, adding that he did not see any security concerns related to the project (European Commission, 2007, p. 4) Finally, the European Commission argued that the project was very positive for the energy security of Germany and of Europe in general as it would provide much-needed gas to an increasingly energy thirsty union. Moreover, it would add an additional transit route, the Commission argued. The EU formally declared its support by re-affirming the pipeline's status as part of the Trans-European Network Energy Guidelines ('TEN-E') in 2006 (Whist, 2008). The Energy Commissioner Andris Piebalgs argued in that same year that:

“The more pipelines we have, the securer is the supply. The question is only that in the course of construction all the relevant environmental factors will be respected, but that too I see positively” (European Commission, 2007, p. 2).

One the other hand, Poland, and other Baltic States (Sweden, Denmark, Estonia, Latvia and Lithuania) were very critical about Germany closing the Nord Stream deal with Russia, arguing that it was a

politically motivated strategy that would increase Russia's leverage on them and threaten their energy security. This strategy, they argued, would allow Russia to use the pipeline to blackmail other transit countries, or to possibly also use it as a tool to put Member-States against each other (Whist, 2008). Nordic States also emphasized the potential environmental impact the project could have. In this regard, they argued that the construction of the pipeline would disturb a contained area of the sea and cause more pollution (Whist, 2008). Moreover, there was also some debate about the possible military concerns the pipeline could raise. On this, the Swedish Research Defense Agency stated that it could be used for intelligence purposes and give a Russia strategic advance in the region (European Commission, 2007, p. 6).

The Nord Stream project was a reflection of the strained EU-Russia energy relations and it highlighted the different interests and approaches shaping the formulation of an EU energy (security) policy. Moreover, the approval of the pipeline also highlighted the EU's natural gas supplies diversification challenge (Ratner, Belkin, Nichol, & Woehrel, 2012).

3.2.3. EU-Ukraine Association Agreement (2012-2014)

One of the best instances illustrating the negative impact of Nord Stream construction on the EU's strategy to diversify its natural gas supplies is to look at how the pipeline bypassed Ukraine, one of the EU's most important transit countries for gas (Kapitonenko, Shamshur, & Chalyi, 2012, p. 4). Nord stream started exerting greater pressure on Ukraine, whose economy is largely dependent on incomes from Russia-EU energy transit, leading the country to start deeply considering greater alignment with the EU (Kapitonenko, Shamshur, & Chalyi, 2012, p. 4). As such, the EU had already been acting in order to protect one its most important transit countries and it had been doing so by working on the establishment of a EU-Ukraine Association Agreement that would create privileged links between both in an area of mutual interest – energy (European Commission, 2011).

The Agreement was drafted in March 2012 and signed in March 2014, right after the Russian occupation of Donbass and Crimea – two regions that were of the utmost importance for the Ukrainian energy structure (Bayramov & Marusyk, 2019, pp. 12-13). With the Agreement, Ukraine committed itself to becoming a greater EU energy partner and to implement a wide range of EU energy provisions that would be crucial to reform its energy sector and to integrate the EU's energy market (Conconi, Herghelegiu, & Puccio, 2020).

In this regard, the Agreement clearly states that Ukraine is:

“Committed to enhancing energy cooperation, building on the commitment of the Parties to implement the Energy Community Treaty [...]” and “Committed to enhancing energy security, facilitating the development of appropriate infrastructure and increasing market integration and regulatory approximation towards key elements of the EU acquis [...]” (European Commission, 2014, p. 5).

The importance of Ukraine for the EU's energy (security) policy has always been clear. However, one believes that the construction of Nord Stream highlighted this importance to the EU, which culminated in the establishment of the EU-Ukraine Association Agreement. For instance, in 2011 the EU launched a communication on security of energy supply and international cooperation entitled: "The EU Energy Policy: Engaging with Partners beyond Our Borders". In it, the EU reiterated the importance of Ukraine through the following statements:

“Approximately 20% of the EU's gas supply passes through Ukraine. The EU must support efforts to rehabilitate Ukraine's Gas Transmission System, while improving transparency and the legal framework. It should aim at faster integrating Ukraine into the Energy Community. The EU must also work to establish a tripartite cooperation at political and administrative level with Russia and Ukraine to ensure stable and uninterrupted gas supplies through the Eastern Corridor” (European Commission, 2011).

After 2011, and with the signing of the EU-Ukraine Association Agreement, the EU started to provoke a change in the energy structure of Ukraine (by exporting its *acquis communautaire*) that would favor the EU's energy (security) policy itself. One of the most important changes in this regard was the EU demand for Naftogaz to be restructured and reunite the legal conditions to perform a greater role in the EU's gas transport system (Bayramov & Marusyk, 2019, p. 12).

3.3. Concluding remarks

While in the beginning of the 2000s the EU intensified its efforts in strengthening the internal dimension of its energy (security) policy, from 2006 until 2014 a greater focus was placed on the development of its external dimension. This change was due to a particular event: the Russian natural

gas cut-off to Ukraine in 2006. This event showed the EU how vulnerable it was to Russian gas supplies and its transportation through Ukrainian infrastructure (Jegen, 2014).

Consequently, the EU emerged in a new wave of policy-making focused on the development of mechanisms and rules that would allow itself to respond to this kind of external events as well as deal with specific third countries that had a direct impact in its market – Russia and Ukraine (Jegen, 2014). As such, from 2006 to 2009 the EU adopted a series of policy initiatives to deal with the growing Russian challenge of cooperation in the energy sector. Although many important initiatives were taken in this period (like the 2006 European Energy Community and Green Paper), one must highlight the following ones. First, the First Strategic Review, or “An Energy Policy for Europe”, which was established in 2007. Although this policy did not achieve any considerable progress towards the definition of a common external energy (security) policy, it made a huge progress with regards to security of supply as it established response mechanisms that would face the eventuality of an energy cut-off (Council of the European Union, 2007). Second, the Second Strategic Review, where the EU proposed the creation of the Southern Gas Corridor, which would bring the Union closer to other energy producing and transit countries in the Caucasus. The SGC was a pipeline that was planned to be controlled by Western firms and managed by EU law. All this with the objective of promoting diversification of supplies and promoting the energy security of Southern and Central European countries, thus reducing their dependence on Russian gas (Jarosiewicz, 2015, p. 10). Third, and lastly, the Lisbon Treaty was particularly important as it finally materialized the three EU energy (security) policy dimensions: internal market, environment and external relations. Moreover, this Treaty introduced energy as a shared competence, whereby member-states could not apply authority when the EU had done so (Jegen, 2014).

This period of policy-making allowed the Eu to develop its ability of dealing with the Russian growing challenge – it actually showed the entrepreneur power of the Commission in leading the development of the EU’s energy (security) policy. Still, some policies – like the First Strategic Review – did not fulfill their potential due to the classic EU dual-take approach problem related to the reluctance of some member-states – especially Germany – in putting their national energy interest towards Russia at stake (Natorski & Surrallés, 2009). From 2009 to 2014, the Commission’s efforts towards the creation of an external energy dimension were motivated by new Russian-led events that had directly affected the security of the Union’s energy supplies: a cut-off of gas supplies to Belarus in 2007, a second cut-off to Ukraine in 2009, a conflict with Georgia in 2008 and 2009, and a second cut-off to Belarus in 2010

(Pirani, Stern, & Yafimava, 2009). As a result, the EU launched in 2009 the Third Energy Package, which was directly aimed at tackling Russian influence over the European gas market. The Package placed stricter demands on energy companies operating on the EU's territory – as it was Gazprom's case. The most impactful of these demands were the third-party access requirement and the requirement for the unbundling of transmission networks (Stern, Pirani, & Yafimava, 2015). Moreover, between 2012 and 2014 the EU launched the EU-Ukraine Association Agreement that intended to transport the EU's *acquis communautaire* to the Ukrainian energy sector, thus integrating it in the European energy market and stepping it away from Russian dominance (Bayramov & Marusyk, 2019). This Agreement came in light of the construction of Nord Stream in 2011, which bypassed important transit countries for Europe, like Ukraine. Nord Stream was supported by the EU as it was seen by the bloc as a solution to its growing need for gas and as an extra route to its transport system. Still, the project raised a lot of debate among member-states that were in favor and against it, being the most vocal ones in this regard Germany (in favor), Poland and the Baltic States (against) (Whist, 2008).

During the period of 2006 to 2014 the EU behaved as a Regulatory Power as most of its policy initiatives were intended at creating a pan-European area that integrated and subjugated to EU rules all neighbouring countries that were of the utmost importance for the EU's energy (security) policy. According to Goldthau and Sitter's study on this kind of behavior, the European Energy Community, the Green Paper, or the Third Energy Package are clear examples of Regulatory Power as they represent the use of regulation to build and manage the European energy market in a way that favors the interests of the EU.

Chapter IV: EU's comprehensive approach: The EU as an Economic and Market Power (2014-2019)

From 2006 to 2014, the EU focused on using its regulatory power to develop an internal energy market and to create a common European approach to tackle energy security issues and deal with producing

and transit countries like Russia or Ukraine. From 2014 until 2019, the EU adopted a new strategy: it started using its economic and market power to protect its internal energy market and to deal with external relevant players. This strategy emerged because some of the countries that had been most dependent on Russian gas – and became even more so after the Nord Stream, as Poland and the Baltic States – became more fearful of political intervention from Moscow and called for a more assertive EU gas policy directly targeted at Russia²¹

Additionally, from 2014 to 2019 there were a series of events that made the EU fearful about the security of its energy market and thus gave the Union an extra motivation to start using its economic power in a more mercantilist way directed at protecting it from external threats. For example, the 2014 Crimea crisis placed Russian threats at the top of the EU's foreign policy agenda. Then, the British government decision to leave the EU provoked a shift in the balance between the defenders of the EU using a more liberal approach to energy markets and security of gas supplies and the defenders of the EU using a rather more assertive liberal mercantilist approach. On top of that, the increase in Russian incursions into NATO and Baltic States airspace and Donald Trump's questioning about the US commitment to NATO's article 5 further exacerbated the issue and gave the EU force to develop a stronger security policy (Goldthau & Sitter, 2019, pp. 12-13).

As such the EU engaged in a new era of policy-making based, as we have said, on the use of economic power. Practically speaking, this translated into a new toolbox of EU energy diplomacy based on strengthening and enhancing economic opportunities for the energy sector, as for example, establishing new partnerships with energy producers and transit countries; strengthening its position as the standard-setter for the new energy transition era; and using economic tools, as for example, sanction or investment schemes to protect the energy security of its market and supplies (Pastukhova, Pepe, & Westphal, 2020).

²¹Brussels, 7 February, 2020. Interview with an anonymous officer from the permanent representation of an EU-member-state.

4.1. EU sanctions to Russian and Ukrainian individuals, officials, and companies (2014-2016)

The use of sanctions was indeed one of the first tools that the EU used upon entering a new phase of energy (security) policy-making that was marked by the 2014 Russian annexation of Crimea. These sanctions were intended to punish the proponents of the annexation, which were responsible for occupying a Ukrainian region with important energy infrastructure for the EU, as well as gas supplies that ended being disrupted by Russia (Bayramov & Marusyk, 2019, p. 9).

The EU recognized that the Russian annexation of this territory and the possible escalation of this conflict could have serious implications, like a possible disruption of Ukrainian gas supplies flowing to Europe. So, it would be expected that the EU targeted the Russian gas sector in the packages of sanctions it adopted right after the event. However, the EU could not do so because its dependence on Russian gas supplies was too big and prevented the bloc from doing so. Actually, an embargo on Russian gas supplies would have devastating consequences to most EU member-states dependent on that same gas, and to Russia itself, which would lose a lot of revenue (de Micco, 2014). So, what the EU did was to target individuals or companies that had an impact on the Russian energy sector, but that were not crucial for Russian gas exports to Europe. The use of these sanctions represented, according to Goldthau and Sitter, clear examples of the EU's use of its economic power in order to protect its energy market (Goldthau & Sitter, 2019, p. 13).

As such, right after the annexation, the EU cancelled the EU-Russia Summit and listed several people with visa bans and asset freezes. Then, on 12 May, considering the absence of steps to de-escalate the conflict, the EU sanctioned two energy firms under the control of the Crimea government. Months later, a Malaysian airplane (MH17) flying over Ukrainian territory was downed – possibly by pro-Russia militias – which led the EU to restrict investment and trade in Crimea and Sevastopol. Moreover, prohibited exports of certain energy-related equipment and technology to Russia. Still, Russian involvement in the conflict kept growing, which led the EU to put restrictions on the financing of Russian oil companies (Rosneft, Transneft and Gazprom) (De Micco, 2014).

While an embargo on Russian gas was never imposed due to possible consequences for the EU energy market, the EU nevertheless had to think about a long-term strategy to meet its energy needs if continued escalation between Russia and Ukraine created serious gas disruptions to Europe. So, the

EU started thinking about other solutions at the EU-US Summit, in the European Energy Security Strategy of 28 May, at the G7 meeting on 4 June 2014¹⁶ and in the stress test of 17 October (Szulecki, 2018, p. 2).

After serious reflection, possible solutions emerged:

“[...] increasing storage capacity in the most vulnerable Member States, developing reverse flows, creating a short-term mechanism to switch to alternative fuels, and setting up regional plans for securing the supply. [...] In the long term, security could be strengthened by creating optionality by for example – completing new pipelines, building LNG terminals, opening and stabilizing patterns of trade with new countries such as Iran, reducing energy consumption through appropriate energy efficiency measures, increasing renewable energy production [...]” (de Micco, 2014, p. 10).

And completing new pipelines, building new LNG capacity, opening trade of gas with new countries, or increasing renewable energy production was precisely what the EU did afterwards and what marked its new era of energy (security) policy-making through the use of economic power tools (De Micco, 2014). Moreover, these kinds of measures and especially the sanctions themselves represented a growing EU capacity to act in the external sphere of energy (security) policy²² – *Thomas Maltby* presents this growing capacity as “implementation-related power where the Commission has now a role as ‘enforcer’ of the internal energy market (Maltby, 2013, p. 442).

4.2. European Energy Security Strategy (2014)

The 2014 annexation of Crimea, indeed, worked as a catalyst for the European Commission to act as an enforcer of the internal energy market. As such, right after the incident, the EU launched the European Energy Security Strategy. This policy-initiative showed, first, that the EU had committed itself to Ukraine’s energy security – especially after Ukraine joined the European Energy Community in 2011, and in 2012 started conversations for signing an association agreement with the EU. In second, this policy-initiative showed that the EU wanted to deal with the energy security issue without abandoning the principles of its broader energy and climate policy (Buchan, 2014).

²²Brussels, 10 January, 2020. Interview with an anonymous researcher from an European think tank.

In this regard, in the European Energy Security Strategy, one could read the following:

“The EU is the only major economic actor producing more than 50 per cent (23 per cent renewable and 28 per cent nuclear) of its electricity without greenhouse gas emissions. This trend must continue. In the long term, the Union’s energy security is inseparable from and significantly fostered by its need to move to a competitive, low-carbon economy which reduces the use of imported fossil fuels. This European Energy Security Strategy is, therefore, an integral part of the 2030 policy framework on climate and energy and also fully consistent with our competitiveness and industrial policy objectives. It is important, therefore, that decisions are taken on this framework soon, as indicated by the European Council, and that Member States gear up collectively to prepare and implement long-term plans for competitive, secure and sustainable energy” (European Commission, 2014).

Besides intending to strengthen energy security in Ukraine, following the annexation of Crimea, this EU policy-initiative was in line with the new elements of EU energy and climate policy goals: energy affordability and competitiveness, and emission reduction. As such, the policy-initiative suggested that the EU was on track to achieve its target of 20% of energy efficiency by 2020. It emphasized the importance of smart grids and local production and called for the implementation of ‘Projects of Common Interest’ in energy infrastructure. But most importantly, it stated that Russia was no longer a reliable partner for gas supplies after the annexation of Crimea and, as such, it highlighted the need to prevent a major supply disruption during the 2014/ 2015 winter; to develop solidarity mechanisms; to reduce dependence on imported Russian gas; to complete the internal energy market as a main objective for the future; and finally, to develop its own energy technologies, its own gas infrastructure, and to speak with one voice in external energy (security) policy (Wilson, 2015).

Despite the potential these objectives have for the development of the EU’s energy (security) policy, they were just that – objectives. Nonetheless, it must be noted that in the short term, the European Energy Security Strategy was able to achieve some new measures (although they were somewhat modest). For instance, Eastern Europe member-states now had to carry out stress tests and risk assessments to check their ability to cope with reductions of Russian gas in their storage systems, as well as to check their ability to assist Ukraine in dealing with reductions of Russian gas too. In the medium and long-term, the European Energy Security Strategy put forward a proposal to prioritize EU funds to develop gas interconnections within the EU and relationships with external suppliers like

Norway and the Caspian region. Finally, it proposed that the European Commission played a bigger role in negotiations with new external suppliers and asked for greater cooperation between the national energy policies of member-states (Buchan, 2014, p. 4).

It can be concluded that the European Energy Security Strategy was part of the EU's new way of formulating its energy (security) power that is based on the use of economic power (Goldthau & Sitter, 2019). This assumption was made by taking into account that in this policy-initiative, the most realistic and progressive proposals that were put forward were the ones based on the use of EU economic tools, as prioritizing EU funds to develop new gas interconnections and establish new partnerships with possible suppliers.

4.3. Energy Union (2015)

The 2014 Russian annexation of Crimea soured the EU's relationship with its biggest gas supplier and consequently served as a catalyst for the Union to enter a new era of energy (security) policy-making based on the use of economic tools. One of these most remarkable tools that were put forwards right after the annexation was the 2015 Energy Union, which placed security of gas supplies and solidarity between member-states at the top of the EU's energy agenda (Goldthau & Sitter, 2019).

By putting these two elements at the top of the agenda, its ultimate goal was to reduce the EU's dependence on Russian gas (Fânzeres, 2015). The idea was to do so through promoting interconnectivity between European energy infrastructures, building and developing already existing gas storage capabilities, building liquefaction terminals, as well as encouraging all member-states to guarantee at least two supplying sources of natural gas to promote diversification. This last one was particularly important as its objective was to make sure no member-state was solely dependent on Russian gas – and because of this measure, nowadays, Cyprus and Malta are the only member-states dependent on a sole natural gas supplying source²³.

However, the most innovative measure being put forward by the Energy Union was the creation of an EU body that would negotiate supplying contracts with the bloc's main suppliers, like Gazprom and other LNG producers. With this body, the EU intended to transform its geoeconomic value into a factor

²³Brussels, 19-20 February, 2020. 550th Plenary Session of the European Economic and Social Committee.

of power and negotiation. But most importantly, this body meant a common EU external voice on energy issues (Fânzeres, 2015, p. 33).

However, the reasonability of the presented measures was questioned right after they came to public as they had been put forward by then Prime-Minister Donald Tusk and were clearly directed at serving the economic and political interests of Poland and other member-states that were very dependent on Russian gas. Moreover, the Energy Union's measures were based on the idea that dependence on Russian gas constituted a threat to Europe, when, in truth, stronger member-states like Germany, Italy, the Netherlands, or even France (that nevertheless pushed a lot for the Energy Union to materialize), did not agree with that idea. In turn, these states actually had a clear interest in maintaining this dependence, an interest that became apparent if one took a look into their energy partnerships with Russia – still, they showed support for the measures for a matter public rhetoric (Fânzeres, 2015, p. 34; Szulecki, 2018, p. 3).

As such, Germany was not very vocal about the Energy Union. Berlin did support the objective of diversifying the gas supplying sources, but did not see any need to create a common European approach for the acquisition of natural gas supplies; Italy, in turn, showed support, but made clear that wanted to keep promoting its energy dialogue with Russia and other states of strategic interest in the Eastern Mediterranean and also Azerbaijan; and Spain and France showed a lot of support for the Energy Union's and the associated goal to develop a common EU energy (security) policy (Fânzeres, 2015, p. 34).

In general, the Energy Union was very well received, after it was put forward by Donald Tusk. However, it was later taken-up and reshaped by the new European Commission administration under Jean-Claude Juncker (Szulecki, 2018). Juncker continued what Tusk initiated. He set out the Energy Union to be the main political reference for the formulation of EU energy regulation,²⁴ something that became clear after a decision of the European Council in 2015:

“According to a Council Decision of December 2015, new energy infrastructure, in addition to being in line with TEP requirements, ‘should entirely comply with the objectives of the Energy Union. In effect, this Decision makes the Energy Union goals – with security of supply topping

²⁴Brussels, 19-20 February, 2020. 550th Plenary Session of the European Economic and Social Committee.

the list – the explicit political context in which regulation is to be interpreted. EU regulation thereby becomes a potentially formidable instrument for advancing EU foreign policy priorities, particularly regarding the fate of Ukraine’s energy economy and Russia’s capacity to service its contractual gas export obligations – including its ability to earn money on the European market” (Goldthau & Sitter, 2019, p. 12).

The Energy Union was based on a market-power strategy. Contrary to most of other previous policy-initiatives in the energy field, it viewed that gas was a strategic good and that security of supply should be of utmost concern, especially for states that relied on Russia for almost 40 per cent of their gas imports²⁵. This view had never gained traction before, even after the several Russian cut-offs to Ukraine or Belarus. However, the deterioration in EU–Russia relations, the annexation of Crimea and the increasing competition between the EU-supported Nabucco pipeline and the Russian South Stream alternative, this view gained a lot of traction (Goldthau & Sitter, 2019).

4.4. The rise and fall of the South Stream (2014-2015)

Indeed, Russia’s South Stream pipeline and its non-compliance with EU law was a very important factor leading the EU to use its market power in a strategic and selective way (Goldthau & Sitter, 2019, p. 9).

South Stream, as it had been mentioned before, was a big competitor to the EU supported Nabucco pipeline since they both aimed at the market of Southeastern Europe. The project was welcomed by the European Commission that despite being skeptical regarding Russian ambitions in the EU’s gas market, saw it as a solution to avoid transit risks emanating from Ukraine and Belarus. Moreover, the Commission also regarded the project as an extra route to EU-Russia gas trade, thus enhancing security of supply (Fânzeres, 2015). Germany, Italy, and France also had a strong national interest in the execution of the project since their national companies Wintershall, ENI and GDF Suez respectively were major actionists of the pipeline. Additionally, Bulgaria, Greece, Slovenia and Hungary also had an interest in the pipeline since they would be some of its main recipients, thus ensuring a bigger amount of Russian gas supplies (Proedrou, 2012, p. 84).

However, despite general interest in the project, even from the EU Commission, it soon started facing several challenges at the EU level. First, Gazprom based the project solely on a set of

²⁵Brussels, 19-20 February, 2020. 550th Plenary Session of the European Economic and Social Committee.

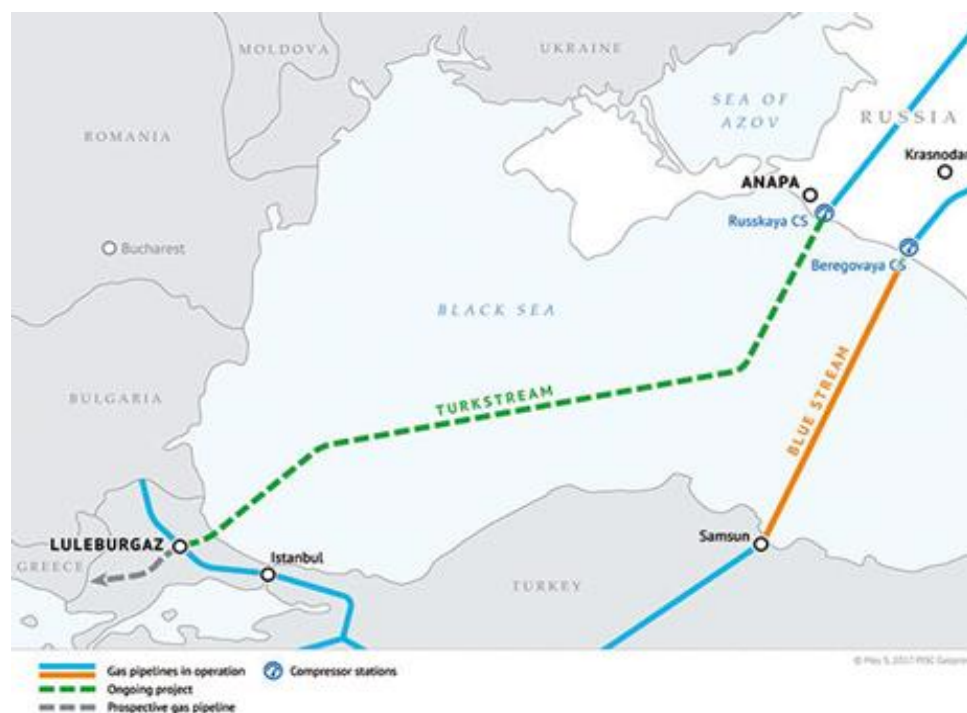
intergovernmental agreements with the main European countries involved in it. Gazprom did so in order to avoid that the pipeline would be subject to the third energy package's third-party access and unbundling requirements, which would require the company to not utilize the full capacity of the pipeline as a way to open it to third parties, thus allowing greater competition (Proedrou, 2012, p. 94). The EU Commission saw this as a Russian breach of EU energy law and, as such, asked Moscow to either re-negotiate or renunciate the agreements governing the pipelines, arguing that if the company would not do so, then the Commission would have to initiate infringement procedures against or and the involved member-states themselves. Russia decided not to follow the EU's request to abide by the Package, and neither did Bulgaria, opting for maintaining the intergovernmental agreement with Gazprom (Stern, Pirani, & Yafimava, 2015, p. 4). As a result, the EU Commission started two infringement procedures against Bulgaria: one for not respecting the TEP and another for possible disrespect of the standard pipeline procurement procedure. This led to the suspension of the pipeline construction in Bulgarian territory in August 2014 (Goldthau & Sitter, 2019, p. 9).

With the Bulgarian suspension, complemented by the EU Commission's accusations of Gazprom's disrespect of third-party Access and unbundling requirements, Russia abandoned the project in December 2014. At the same time, the EU Commission had been taking actions against Russia for annexing Crimea, which also helped create momentum for the Russian cancellation of the project at the end of the year (Stern, Pirani, & Yafimava, 2015, p. 4). According to *Goldthau* and *Sitter*, the EU Commission's accusations of Gazprom's disrespect of the third energy package and investigation of Bulgarian procurement related to the pipeline are an example of the EU behaving as a market power as it is using energy market regulation in order to impose Russia and Bulgaria legal conditions to access its internal energy market (Goldthau & Sitter, 2019, p. 9).

In the meantime, South Stream's cancellation occurred, during the Summer of 2015, with Gazprom replacing it with a new project: the Turkish Stream²⁶ (or TurskStream) which intended to bring the Russian gas to the European territory of Turkey, through the Black Sea. Also, during the Summer, Gazprom announced the already debated Nord Stream 2, which despite having a very different geographic location that the one of Turkish Stream, had the same objective: increasing the shares of Russian companies in the European energy market, diversifying export routes, and bypassing transit

²⁶"TurkStream consists of two lines, each capable of delivering 15.75 billion cubic meters (bcm) of natural gas annually. The first line is intended for the Turkish market, while the second is meant for Europe, comparable to South Stream before the project was scrapped in 2014. Therefore, TurkStream may affect the supply situation in both Southeast and Central Europe, adding another non-Ukrainian supply route from Russia" (Jirušek, 2020).

countries, like Ukraine or Belarus, that presented political risks to Russia. Moreover, according to the European companies that support them, these projects would contribute to increased European energy security by adding an extra route and being able to fulfill Europe's growing gas demand. Contrarily, the project's opponents argue that they are political instruments intended to give Russia leverage over Ukraine and Eastern Europe (Siddi, 2020, p. 10). However, it was unclear whether these considerably recent projects would give Russia political leverage over Eastern Europe. The main concern for the EU is instead the likelihood of some member-states taking extreme stances towards the projects, which would undermine the EU's internal coherence on energy issues (Siddi, 2020, p. 10).



Map 5: Turkish Stream route (Hurriyet Daily News, 2017)

In the case of the Turkish Stream, the EU has also expressed concerns related to the pipeline section in Serbia arguing that it must respect EU energy law, namely the third energy package's third-party access and Unbundling Requirements. Additionally, the EU has also added that it will scrutinize the evolution of the project's execution and check if it adheres to the internal energy market rules (Jirušek, 2020).

As such, the EU has a big challenge ahead in what regards guaranteeing that the project is fully in line with its energy law. Most possibly, in order to deal with it, the EU would need to find a solution that balances its import needs and foreign policy concerns related to Russia (Jirušek, 2020). Still, import

needs might be a determinant factor regarding how the EU will deal with the project – especially if one takes into account that current forecasts estimate that Europe will need to import an additional 77 bcm by 2025 as a result of EU decarbonization policies and the fall in domestic gas production in Europe. Thus, the Turk Stream will be very welcome in Europe, however, it will be subject to EU's market access conditionality tools (Bochkarev, 2019, pp. 2-5).

4.5. EU-Turkey High Level Energy Dialogue (2016)

Indeed, the EU's growing gas demand has been a determinant factor in what regards the development of the EU's energy (security) policy. Being aware of this growing challenge has led the EU to create new strategies directed at countering it. One of these strategies, as already mentioned, is based on closing and deepening ties with strategically important countries that stand as crucial for the EU's energy security and energy diversification, as it is Turkey (Karbuz, 2014; European Commission, 2016).

With the objective of deepening such ties, the EU Commission's 2015 Energy Union called for intensified work between both parties on the Southern Gas Corridor and for the establishment of a new strategic energy partnership with Turkey. Furthermore, the European Commission argued that the strategic presence of the European Union and Turkey in the Southern Gas Corridor's region could therefore be used to benefit both from the region's gas export potential, making gas supplies to the EU and Turkey more secure (Tagliapietra & Zachmann, 2015, p. 1).

Turkey geographical location at the cross-roads of gas-rich countries and at the intersection of a very important pipeline of the Southern Gas Corridor, the Trans-Anatolian Pipeline (TANAP), is intended to be used by the European Union as a game-changer in the future of the EU's energy (security) policy in the gas sector. This Corridor has the potential of bringing gas supplies from Azerbaijan, Turkmenistan, and Iran, thus reducing the EU's dependence on Russian natural gas supplies, and promoting the competition of Southern and Eastern European natural gas markets (Tagliapietra & Zachmann, 2015, pp. 3-4). As such, in order to create mutual benefit from Turkey's position, both the EU and Turkey have been working towards greater cooperation in the natural gas sector, being one of the highest points of such cooperation the 2016 EU-Turkey High Level Energy Dialogue. In the Dialogue's Joint Press Statement, one can clearly notice the mutual commitment to the Corridor and how Turkey will play a greater role in the EU's energy (security) policy:

“Both sides underlined the importance of Turkey as a key country for the EU's energy security and as a regional energy hub, and they reaffirmed their joint commitment to the successful implementation of the Southern Gas Corridor. Its timely completion is critical so as to allow gas flowing to Europe by 2020. In this regard, Turkey will continue to play an active role in the Southern Gas Corridor Advisory Council which will convene for a second meeting shortly” (Cañete & Albayrak, 2016).

Moreover, the potential of EU-Turkey cooperation in the gas sector goes even further since Turkey also has the conditions to improve its LNG capacity, which can contribute to its position as regional gas hub in the long term, and to its objective of becoming a very important transit and supplying country to Europe (Cañete & Albayrak, 2016). Finally, Turkey has a considerable potential to play a major role in the European renewables and energy efficiency strategy, increasingly incorporated in the evolving EU energy (security) policy. Additionally, Turkey is investing in the nuclear energy and carbon market, being its new nuclear energy programme and climate change mitigation efforts an example of it, something that the EU might consider as a way of complimenting its energy (security) policy in the gas sector in future (Tagliapietra & Zachmann, 2017, p. 2). Finally, the EU-Turkey cooperation in the gas sector could further develop if the Turkish Stream is able to fill third-party access and unbundling requirements and further double its capacity by creating a second string aimed at supplying the European gas market (Tagliapietra & Zachmann, 2017, p. 4).

Despite all this potential, it should be noted that EU-Turkey energy cooperation has never been institutionalized precisely because of Turkey's reluctance to be subject to EU's energy law. Notably, Turkey is fearful that being subject to it could cause the split-up of its state-owned oil and gas company BOTAS, or even give other companies non-discriminatory access to its company's pipelines (Tagliapietra & Zachmann, 2017, p. 5). As such, in order to help Turkey further integrate with the EU and to assist Turkey in becoming a key transit country for gas that will allow the EU to demarcate itself from its dependence on Russian gas infrastructure, the EU has launched the EU-Turkey High Level Energy Dialogue.

4.6. EU-China Energy Dialogue and Roadmap on Energy Cooperation (2017)

China too has similar energy needs to the ones of Europe, namely its gas demand. Moreover, besides energy scarcity, both the EU and China face an additional number of common challenges in the energy

field, like their vulnerability to climate change and to the increasing volatility of energy prices. This makes cooperation between both a strategic action that needs to be taken (Kottari & Marantidou, 2016).

Their main common challenge: dependence on imports of fossil fuels, has been the main driver of their interaction. China and the EU are the world's largest importers of natural resources, which makes them very dependent on supplying countries, as it is the case of Russia in what regards their natural gas imports. And natural gas is expected to become a major component of China's energy mix, as it already is of the EU's – which means both need to deepen their energy ties with Russia. This makes EU-China cooperation in the energy sector very important. Thus, the EU has been taking measures to promote such cooperation with China, being the most notorious ones the establishment of an annual Energy Dialogue with the country since 1994, which in 2017 achieved one of its greatest outcomes by leading both parties to agree on implementing a EU-China Roadmap on Energy Cooperation (Kottari & Marantidou, 2016; Cătuți, Egenhofer, & Elkerbout, 2019).

The Dialogue, besides having established investment in renewables and efficiency schemes as a mutual interest, also has put a lot of importance in the shared need of their economies to invest in producer countries like Russia and facilitate the development of strategic energy infrastructure (Kottari & Marantidou, 2016). The Dialogue has served as a basis to promote further engagement between both actors in the pursuit of greater cooperation with Russia. Actually, China has already been looking at playing a crucial role in the reform of the Energy Charter Treaty by functioning as a communication bridge between the EU and Russia at the same time that China-Russia energy ties deepen (Kottari & Marantidou, 2016, p. 17). Additionally, China has been largely investing in the gas sectors of many industrialized EU member-states, which means that Europe is playing a growing role for China's energy security. Thus, it is of the EU's economic interest to deepen energy ties with China. The Energy Dialogue and subsequent cooperation initiatives are clear examples that the EU is indeed trying to promote such energy ties (Liedtke, 2017, p. 664),

Nevertheless, if the EU wants to obtain greater benefit from its cooperation with China, it should offer China a more interesting cooperation project. According to an author, China prefers bilateral cooperation with EU member-states, as for example Germany, which not only is one of its most important trading partners, but also the EU's most relevant member-state when it comes to individual energy relations with Russia. The reason for the Chinese preference, the author adds, is that it is easier

for China to reach bilateral agreement with an individual member-state rather than with the EU. Additionally, China enjoys greater leverage when the EU is divided (Newsletter for the European Union, 2017). Still, multilateral cooperation is very important for the EU and as such, the 2017 EU-China Roadmap on Energy Cooperation comes at a moment when the visions of EU and China are aligned in terms of promoting their position as important gas importers from Russia, investing in infrastructure of mutual interest and in clean energies (James, 2019).

One can conclude that the EU's establishment of a strategic partnership with China is an example of the EU using its economic power by offering China investment opportunities in its gas sector, and thus benefit from China's energy connection with Russia. According to Goldthau and Sitter, this approach has not yet been much debated in the EU, however, it is very common in China and Russia's external economic policies (Goldthau & Sitter, 2019, p. 12).

4.7. European Commission proposal to amend the 2009 Gas Directive (2017)

Right after closing two important energy cooperation deals with Turkey and China, in November 2017 the European Commission took a bold step: it proposed to amend the Third Energy Package's Natural Gas Directive with the objective of expanding EU gas rules – namely third-party access, tariff regulation, ownership unbundling and transparency – to all gas pipelines going to and coming from third countries (European Commission, 2017).

The Commission noted that the measure would allow itself to do the following:

“[...] ensure that all major pipelines entering the EU territory comply with EU rules, are operated under the same degree of transparency, are accessible to other operators and are operated efficiently. Once the amendment is adopted by the European Parliament and Council these changes will constitute a significant step towards the completion of the Energy Union. This clarification will also contribute to meeting the goals of the EU gas market, which include increasing competition between gas suppliers and providing a boost to energy security in the EU. Ensuring that all major pipelines wholly or partly located in EU territory are operated efficiently under a regime of transparent regulatory oversight” (European Commission, 2017).

Moreover, the Commission stated that the objective of the amendment was to improve the functioning of the internal market and promote solidarity between member-states. However, its real goal was to

find a way to gain political leverage over the developing Nord Stream 2, which was going to severely increase the Russian dominance over the European gas market. Actually, the amendment would not just create additional bureaucratic rules for Nord Stream 2 to operate in the EU, but also shift energy (security) policy powers from member-states to the Commission, therefore giving the institution the so long-desired powers to authorize and block intergovernmental agreements between member-states and Russia, as well as powers to determine EU member states' energy policies (Bochkarev, 2019).

As expected, this amendment was not well received by many member-states with a clear interest in Nord Stream 2, as it is the case of Germany and France. In this regard, the French government stated that the Commission's amendment violated the principle of subsidiarity, extended the application of EU energy law beyond the EU borders without a proper legal basis, and violated the sovereignty of member-states to determine their own energy policies, which was established under Article 194(2) of the Treaty of the European Union (TFEU). Also, Uniper, criticized the Commission's action, arguing that it violated the sovereignty of member-states to determine their energy sources established under the TFEU (Bochkarev, 2019).

Due to the criticisms raised by Germany and France, but also because of the Council of the EU's disapproval to move the amendment forward, the European Commission is still today struggling to make its will prevail. This shows the increasing entrepreneurial role of the institution in energy affairs and how it is using its regulatory capacity to create market access conditions to Russia, which is, according to Goldthau and Sitter an example of an application of market power (Goldthau & Sitter, 2019). Most importantly, the fact that the amendment did not move forward because of member-states' national interests over Nord Stream 2, shows us, once again, the EU's dual take approach when it comes to energy (security) policy-making.

4.8. Security of Gas Supply Regulation (2017)

In the same month that the EU Commission proposed its amendment to the Natural Gas Directive, it also adopted the Security of Supply Regulation. Although this regulation did not extend itself to external pipelines, as the EU wanted its Directive to, the Regulation contained a number of relevant provisions that had a legal impact on new pipeline capacity arriving into the EU, like Nord Stream 2. These provisions established the need for member-states to provide common risks assessments, preventive regional action plans, and an information exchange mechanism about gas supply contracts. Thus, the

way in which member-states planned their regional emergency plans in the event of a gas shortage could have an impact on the development of new gas transmission capacity (Hancher & Marhold, 2019).

Additionally, the regulation stressed preserving existing pipelines and supply contracts, and created a new solidarity clause. According to it, a member-state that is directly connected to another member-state that requested for the activation of the solidarity clause is obliged to take measures to guarantee gas supplies to the customers of the requesting state – having these measures to be incorporated in their emergency plans (Hancher & Marhold, 2019, p. 9). According to the 2018 Deputy Director General of the European Commission's DG Energy, this regulation meant that consumers were protected in case supplies ran short. According to him, the regulation meant that the EU had a functioning gas market (Bochkarev, 2019).

4.9. Southern Gas Corridor inauguration (2018)

As a way of keeping developing its gas market, in 2018 the European Commission announced the opening of its long planned Southern Gas Corridor. The SGC consists of four sections that extend through a length of 3,500 kilometers. The first section corresponds to the Shah Deniz gas field and extraction facilities in the Caspian Sea; the second to the South Caucasus pipeline which runs from Baku to the eastern Turkish city of Erzurum; the third to the Trans-Anatolian Pipeline (TANAP) which extends itself from the gas-receiving city of Erzurum in Turkey to the Greek-Turkish border; the fourth and last, the Trans-Adriatic Pipeline (TAP) which carries gas from the Greek-Turkish border to Italy via Greece, Albania and an offshore section in the Adriatic Sea. The SGC is able to channel a total of 10 bcm of gas to the EU every year (Siddi, 2019, pp. 8-9).

The project represented a huge step forward in the development of the EU's energy (security) policy as it allowed the EU to diversify its gas imports by accessing gas supplies in the Caspian Sea through a route that bypasses Russia. Moreover, by allowing several European countries to diversify their supply sources, it also allowed them to reduce their dependence on Russian gas (Siddi, 2019). The SGC has also served as a catalyst for further investment in the gasification of the Western Balkans that currently lack a gas sector and are therefore very dependent on locally produced coal, as for example Albania, Kosovo and Montenegro. The project also gives an opportunity for Bosnia & Herzegovina, which is

100% dependent on Russian gas, to develop its energy sector and demarcate itself from total dependence from Russian gas (Matalucci, 2020).

The corridor's TAP section has also incentivized other gas projects in the region, as for example the Krk LNG terminal in Croatia, or, most importantly, the growing role of Turkey as a gas transit country to the EU – actually, it is estimated that by 2021 the total volume of gas coming via Turkey to the EU will be of 25.75 bcm per year (Matalucci, 2020). Additionally, SGC has a lot of potential for biomethane and hydrogen transport, something that was highlighted as a possible way to contribute to the diversification of the EU member-states' energy mixes (Liakopoulou, 2021, p. 10).

The project has been one of the EU's most important natural gas sector projects due to how it counters dependence from Russia by adding new suppliers to the EU gas market, therefore allowing the EU to negotiate better prices from Gazprom. Due to its potential to counter Russian influence, the SGC has received decades of support from successive US and EU administrations (Morningstar, Bryza, Brown, & Shaffer, 2020). According to Goldthau and Sitter, one of the best examples of the EU's use of its economic power to promote its energy security is the creation of economic opportunities with EU financing, and that is precisely what the SGC represented: an EU-backed gas infrastructure directed at finding new supplying sources, negotiating better gas prices and bypassing Russia.

4.10. EU-USA (8th) Energy Council (2018)

Indeed, from 2014 to 2019, the EU has worked on the development of economic opportunities to strengthen its energy (security) policy. One of the most remarkable opportunities that the EU had in this regard was the EU-US 8th Energy Council, which took place on 12 July 2018 (U.S. Mission to the European Union, 2018).

The EU-US Energy Council has always been a key instrument for promoting transatlantic gas trade. As such, every time it has taken place, it has promoted the development of businesses between EU and US energy companies, it has discussed the development of LNG related infrastructure at the transatlantic level, it has discussed ways of transporting American LNG to the EU market, and it has promoted the negotiation of American LNG prices in the EU (Cepconsult, 2019)

American LNG has and will have, in the view of the European Commission, an essential role for the EU's energy market in terms of diversification of supplies and promoting a more competitive market.

American LNG can be a great competitor to Russian gas exports to Europe, and this is something that has been strengthened during the EU-USA energy councils. It has even been discussed that if the EU increased its imports of American LNG, they could come close to the prices of Russian natural gas sold to the EU. Moreover, growing exports of American LNG could weaken the economic impact of Nord Stream 2 in Europe, and help counter Gazprom's growing position as a monopolistic player in the EU gas market²⁷.

4.10.1. Juncker-Trump Joint Statement on Energy Cooperation: expanding exports of US liquified natural gas (LNG) to Europe (2018)

Taking the growing potential of American LNG to Europe, on 25 July 2018, following the 8th EU-US Energy Council, the Presidents of the European Commission and of the United States agreed to strengthen cooperation with respect to LNG trade. In this regard, the EU committed to expand its future imports of American LNG to Europe to diversify its energy supplies and promote energy security (European Commission, 2018)

In this regard, the EU Commissioner for Climate Action and Energy, Miguel Arias Cañete, noted the following:

"Diversification is an important element for ensuring the security of gas supply in the EU. Increasing imports of competitively priced liquefied natural gas from the U.S. is therefore to be welcomed. This is happening at a time when EU indigenous gas production is declining more rapidly than foreseen and there is an accelerated phase-out of coal power plants in the EU" (European Commission, 2018).

At the end of the meeting, Jean-Claude Juncker noted that in order to strengthen the EU-US LNG partnership, the EU had committed to co-finance LNG infrastructure projects worth over €638 million, an investment that is going to result in an increased EU capacity to receive an additional 15 billion bcm of American LNG by 2021. Nevertheless, it was also made clear that in order to increase exports to Europe, US LNG prices needed to become more competitive in the EU market (European Commission, 2018).

²⁷Brussels, 7 February, 2020. Interview with an anonymous officer from the permanent representation of an EU-member-state.

4.11. EU's LNG strategy (2019)

LNG in Europe is becoming increasingly attractive and competitive. According to the International Energy Agency, EU's imports of LNG are going to increase by almost 20% in 2040 when compared to 2016, as the EU increasingly sees it as an important part of the EU's diversification strategy.

In order to accompany the growing levels of LNG arriving in Europe, the EU, as it was mentioned above, has been investing on its LNG infrastructure (European Commission, 2018).

4.11.1. EU-Croatia: creation of the LNG terminal on the island of Krk (2019)

One of the most important investments that the EU did in this regard was the construction of an LNG terminal on the Croatian island of Krk²⁸. In the EU Commission's public approval of the project, the EU Commissioner for Competition noted the following:

“The new LNG terminal in Croatia will increase the security of energy supply and enhance competition, for the benefit of citizens in the region. We have approved the support measures to be granted by Croatia because they are limited to what is necessary to make the project happen and in line with our State aid rules” (European Commission, 2019)

The Commissioner's remarks pointed out the fact that with the terminal the EU would be able to strengthen the energy security of the region which is partially dependent on Russian gas supplies.

The project involves a floating storage and regasification unit, a jetty, onshore auxiliary facilities and buildings, a pigging station, and water and drainage facilities, along with a high-pressure gas pipeline to connect the terminal with the Croatian National gas transmission network (European Commission, 2019). Additionally, the project will serve as a complement to the Southern Gas Corridor's TAP section that will bring gas from Caucasus to Europe, being now able to be liquefied and more easily transported to other nearby countries (Matalucci, 2020)

In order to materialize the project, there was a total investment of €233.6 million, which was financed through a direct equity contribution of €32.2 million from the LNG terminal company shareholders; a contribution of €101.4 million from the Connecting Europe Facility, which is managed by the European

²⁸Brussels, 10 January, 2020. Interview with an anonymous researcher from a European think tank.

Commission; and a direct financial contribution of €100 million from the Croatian State budget (European Commission, 2019).

The Commission's investment in the project points out again to *Goldthau* and *Sitter's* argument of the EU behaving as an actor that uses its economic power to create opportunities that will directly benefit its natural gas market (Goldthau & Sitter, 2019).

4.11.2. EU-Poland: extension of the LNG terminal in Świnoujście (2019)

The use of the EU's economic power has become a regular strategy for strengthening the EU's energy (security) policy in recent years. Right after the European Commission approved an investment plan for developing LNG capabilities in Croatia, in the same year it also approved a €130 million investment for extending the LNG gas terminal of Świnoujście, in Poland (Industry Europe, 2019). The project, according to the Commission, increased the capacity of the port's LNG terminal, therefore contributing to strengthen the energy security of Poland and to develop the gas markets of the Baltic Sea region. Moreover, the project helped the EU to increase the security and diversification of natural gas supplies in Europe, to build an integrated and competitive market, and to contribute to the achievement of European energy and climate goals (European Commission, 2019).

Indeed, the project was a great achievement in terms of increasing security and diversification of gas supplies in Europe as it allows the EU to transport LNG to where it wants without using Russian pipelines. According to the EU Commission's statement, that precisely seems to be the objective of the project:

“These types of key cross-border projects connect the energy systems of EU countries and seek to provide affordable, secure and sustainable energy for all, and decarbonise the economy in accordance with the Paris Agreement” (European Commission, 2019)

Moreover, it also needs to be considered that the extension of the terminal is part of the EU's current plan to connect Poland with Denmark, Ukraine, Lithuania, Czechia and Slovakia through a series of projects that are based on developing LNG terminals and building gas pipeline that the EU entitles as North-South infrastructure corridor and Baltic Energy Market Interconnection Plan for gas (European Commission, 2019).

4.12. EU's renewable energy strategy: The Green Deal (2019)

Lastly, in December 2019 the European Commission published the Green Deal, an initiative to make the EU's economy more sustainable by turning climate and environmental challenges into opportunities. One of the areas that the Green Deal will focus is the EU's energy sector. Here, the Green Deal has the main objective of decarbonizing the energy system with the objective of reaching climate objectives in 2030 and 2050. But most importantly for the purpose of this thesis is the role that the Deal puts on decarbonizing gas and on giving renewable energies a central role in Europe's energy mix (Murray, 2020)

The Union's clean energy transition plan wants to use renewables, such as offshore wind, ocean energy, geothermal, biofuels and green hydrogen to serve as a complement to natural gas²⁹. As such, the Green Deal has committed to invest billions of euros in renewable energy projects (Hall, 2020)

Still, the European Parliament has recognized that even with more renewable energy, imported Russian gas is still going to be one of the most important fuels of the EU's energy mix in future decades. As such, in order to reduce that dependence, not only the EU will invest in renewables as a complementary source, but it will also, as we could already see, try to find new suppliers like Azerbaijan, Iran, and other countries in Central Asia. The EU will also increase its investment in American LNG and its own liquefaction capabilities as most European countries do not have the necessary infrastructure to import it. Moreover, the EU will bet on other innovative energy sources as complements to natural gas, as for example clean hydrogen (Russell, 2020).

4.13. Concluding remarks

It can be concluded that from 2014 to 2019 the EU placed most of its efforts in trying to develop the external component of its energy (security) policy. This period, contrarily to the previous one of 2006 to 2014, in which the Commission tried to achieve the exact same objective, is slightly different because the efforts of the institution were also directed at developing an energy (security) policy that incorporated environmental concerns.

²⁹Brussels, 7 February, 2020. Interview with an anonymous officer from the permanent representation of an EU-member-state.

Still, the Commission's objective with the development of an external component was the same as before: to deal with its dependence on Russian gas supplies and the transit instability of Ukraine. In order to accomplish that objective, the Commission engaged in a series of policy-initiatives, being the most remarkable for what they accomplished the Energy Union (2015) and the Security of Gas Supply Regulation (2017).

Both these initiatives achieved a lot in terms of promoting security of supplies and solidarity between member-states. Regarding security of supplies, the Energy Union was particularly effective as it created an EU body that negotiates supplying contracts with the bloc's main suppliers, thus giving the EU a coherent external voice in energy negotiations. But most importantly in this regard, the Energy Union established that security of supplies should now be the main driver of any EU energy regulation. Thus, the EU could now explicitly use energy law for advancing the interests of its energy market, as for example determining the fate of Ukraine's energy economy or Russia's capacity to service its contractual gas obligations (Goldthau & Sitter, 2019).

Regarding promoting solidarity between member-states, the Security of Gas Supply regulation was particularly more important. It created a solidarity clause that forced a member-state that was directly connected to another member-state that had requested for solidarity to take measures to guarantee gas supplies to the customers of the requesting state (Hancher & Marhold, 2019).

The 2014-2019 period was marked by a series of other EU policy initiatives that showed us that the EU was now behaving as an economic power to promote the well being of its natural gas market. The Energy Union (2015) is a clear example of this as it received a lot of investment from the EU, but there are many other important ones. For example, the EU invested great amounts of economic resources in the establishment of renovated partnerships with Turkey (2016), China (2017), and the US (2018) because of the important role they could have in the European gas sector. Turkey showed to have a lot of potential to be an important gas transit country for Europe, China showed to be a strategic partner of Russia in the gas sector, which could be used in the EU's interest, and the US showed to be a very important future partner as an LNG exporter to the EU. Considering that the EU had agreed to import much more LNG from the US to compete with Russian gas, during 2019 the EU also started investing in its own liquefaction capacities in Poland and Croatia. Additionally, the EU also invested many economic resources to develop its own gas corridor directed at finding new suppliers in the Caucasus and bypassing Russia: The Southern Gas Corridor (2018). Finally, through the Green Deal (2019), the

EU channeled a lot of investment to the renewables sector, as it realized the complementing role it could have to Russian gas.

This period of policy-making showed that the European Commission could have a leading role in the development of the EU's energy (security) policy, especially if it used its economic power. Still, more could have been achieved if it was not for the usual dual-take approach problem characterized by the reluctance of some member-states of putting their national energy interest towards Russia at stake (Natorski & Surrallés, 2009). One of the best examples of this dual-take approach during this period was the European Commission Proposal to amend the 2009 Gas Directive (2017). The Commission's amendment would extend TEP rules (third-party access, tariff regulation, ownership unbundling and transparency) to new import pipelines, like Nord Stream 2. This would not only create additional bureaucratic hurdles for Nord Stream 2 to operate in the EU but would also mean a shift in energy (security) policy powers from member-states to the Commission, therefore giving the institution the so long-desired powers to authorize and block intergovernmental agreements between member-states and Russia (Bochkarev, 2019).

Obviously, this was not well received by many member-states, but especially by the ones with a national interest in Nord Stream 2, like Germany or France, which stated that the Commission's amendment extended the application of EU energy law beyond the EU borders without a proper legal basis, and violated the sovereignty of member-states to determine their own energy policies, which was established under Article 194(2) of the TFEU (Bochkarev, 2019).

Conclusion

This dissertation has set out to answer the research question of “how has the European Union (re)formulated its energy (security) policy while faced with the changing Russian role in the EU's natural gas sector?”, by arguing that the European Union has conceptualized its energy (security) policy through three different approaches: as a normative power, as a regulatory power, and as an economic and market power.

From 1994 to 2003, the EU conceptualized its energy (security) policy while behaving as a normative power. During this period, the EU did not consider Russia as a challenge to its energy strategy, as such, it focused on using regulations to build and manage its internal market, while at the same time creating binding international rules to level the playing field and benefit everyone, including Russia. The European Commission was a crucial actor in this regard, behaving almost as a supranational actor engaging in energy (security) policy initiatives. The most meaningful ones that led us to realize that the EU was behaving as a normative power during this period were the European Energy Charter Treaty (1994), the EU-Russia Energy Dialogue (2000), the First Energy Package (1998), and the Second Energy Package (2003). All these policies were based on the creation of market liberalization rules. The First Energy Package brought the concept of accounting unbundling, which represented the Commission's first attempt to break with national and regional monopolies, a necessary condition for a truly unified European energy market. Additionally, it also deepened the ECT concept of third-party access, which gave member-states the right to require the owners of gas pipelines to allow third parties to use their pipelines under regulated conditions. However, accounting unbundling was not enough for breaking up with the vertically integrated gas monopolies that controlled prices on the wholesale market. As such, the second gas directive tried to fill this void and established the concept of legal unbundling which went further by separating commercial activities from transmission system activities. Moreover, the second gas directive also deepened the third-party access concept by making its implementation mandatory in member-states' transmission and distribution systems, as well as LNG facilities. The EU-Russia Energy Dialogue, in its turn, had a more bilateral and regional character as it was particularly directed to Russia and its objective was to solve issues of mutual concern in the energy sector and to create a model for cooperation based on common practices. However, the Dialogue, as well as the ECT, failed in their objectives of integrating Russia. In this regard, the Packages were far more efficient due to their legal, binding character. The 2000s was a period of strengthening the internal dimension of the EU's energy (security) policy.

From 2006 to 2014, the EU conceptualized its energy (security) policy while behaving as a regulatory power. During this period, Russia cut-off gas supplies to Ukraine (2006 and 2009), Belarus (2007 and 2010), and Georgia (2008 and 2009). Some of these cut-offs had a direct impact on the gas supplies of EU member-states, therefore serving as a 'wake-up call' for how challenging EU's dependence on Russian gas could be. As such, the EU engaged in a wave of policy-making based on the development of regulation that would allow itself to integrate and subjugate to EU rules neighbouring countries that were of the utmost importance for the EU's energy (security) policy. The most meaningful policy initiatives that led us to realize that the EU was trying to develop mechanisms that would allow itself to respond to external threats to its energy security were: The First Strategic Review (2007), the Second Strategic Review (2008), the Lisbon Treaty (2009), the Third Energy Package (2009), and the EU-Ukraine Association Agreement (2012-2014). The First Strategic Review, although not having achieved any considerable progress towards the definition of a common external energy (security) policy, made huge progress with regards to security of supply as it established response mechanisms that would face the eventuality of an energy cut-off. The Second Strategic Review, in its turn, proposed the creation of the Southern Gas Corridor, which would bring the EU closer to other energy producing and transit countries in the Caucasus, therefore allowing the EU to diversify its supplies and to promote the energy security of Southern and Central European countries, reducing their dependence on Russian gas and their vulnerability to cut-offs. The Lisbon Treaty was particularly important as it finally materialized the three EU energy (security) policy dimensions: internal market, environment, and external relations. Moreover, this Treaty introduced energy as a shared competence, whereby member-states could not apply authority when the EU had done so. Also in 2009, the EU launched the Third Energy Package, which was directly aimed at tackling Russian influence over the European gas market. The Package placed stricter demands on energy companies operating on the EU's territory – as it was Gazprom's case. The most impactful of these demands were the third-party access requirement and the requirement for the unbundling of transmission networks. Between 2012 and 2014 the EU launched the EU-Ukraine Association Agreement that intended to transport the EU's *acquis communautaire* to the Ukrainian energy sector, thus integrating it in the European energy market and stepping it away from Russian dominance. This Agreement came in light of the construction of Nord Stream in 2011, which bypassed important transit countries for Europe, like Ukraine. Nord Stream was supported by the EU as it was seen by the bloc as a solution to its growing need for gas and as an extra route to its transport system. Still, the project raised a lot of debate among member-states that were in favor and against it, being the most vocal ones in this regard Germany and Poland, respectively. This period of

policy-making surely achieved a few great things in dealing with the growing Russian challenge. Still, some policies – like the First Strategic Review, the Lisbon Treaty, or the Third Energy package – did not fulfill their potential due to the classic EU dual-take approach problem related to the reluctance of some member-states – especially Germany – in putting their national energy interest towards Russia at stake. While in the beginning of the 2000s the EU placed its efforts in strengthening the internal dimension of its energy (security) policy, from 2006 until 2014 a greater focus was placed on the development of its external dimension. This change resulted from the Russian gas cut-offs.

From 2014 to 2019, the EU formulated its energy (security) policy while behaving as an economic and market power. During this period, the EU kept trying to develop an external component for its energy (security) policy in order to deal with its dependence on Russian gas supplies and the transit instability in Ukraine, while at the same time it created economic opportunities to guarantee the well-being of its natural gas sector, as for example, new partnerships with energy producers and transit countries. The most meaningful policy initiatives aimed at strengthening the external dimension of the EU's energy (security) policy were the Energy Union (2015), and the Security of Supply Regulation (2017). Both these initiatives achieved a lot in terms of promoting security of supplies and solidarity between member-states. In terms of promoting security of supplies, the Energy Union was particularly effective as it created an EU body that negotiates supplying contracts with the bloc's main suppliers, thus giving the EU a coherent external voice in energy negotiations. But most important in this regard, the Energy Union established that security of supplies should now be the main driver of any EU energy regulation. Therefore, the EU could now explicitly use energy law for advancing the interests of its energy market, as for example determining the fate of Ukraine's energy economy or Russia's capacity to service its contractual gas obligations. Regarding promotion of solidarity between member-states, the Security of Gas Supply regulation was particularly important. It created a solidarity clause that forced a member-state that was directly connected to another member-state requesting solidarity to take measures to guarantee gas supplies to the customers of the requesting state. Both these policies, as it was mentioned, were very important for the purpose of giving the EU's energy (security) policy a coherent external voice. However, the Energy Union was way far more relevant in this regard since it allocated a huge amount of money to this purpose. For example, thanks to the money allocated to the Energy Union, the EU was able to invest great amounts of economic resources in the establishment of renovated partnerships with Turkey (2016), China (2017), and the US (2018) because of the important role they could have in the European gas sector. Turkey showed a lot of potential to be an important

gas transit country for Europe, China showed to be a strategic partner of Russia in the gas sector, which could be used in the EU's interest, and the US showed to be a very important future partner as an LNG exporter to the EU. Considering that the EU had agreed to import much more LNG from the US to compete with Russian gas, during 2019 the EU also started investing in its own liquefaction capacities in Poland and Croatia. Additionally, the EU also invested many economic resources to develop its own gas corridor directed at finding new suppliers in the Caucasus and bypassing Russia: The Southern Gas Corridor (2018). Finally, through the Green Deal (2019), the EU channeled a lot of investment to the renewables sector, as it realized the complementing role it could have to Russian gas. This period of policy-making showed that the European Commission can have a leading role in the development of the EU's energy (security) policy, especially if it uses its economic power. Nevertheless, one must clarify that despite the increased investment in LNG and the European strategy to diversify energy sources through renewables, new routes and new suppliers might reduce Russian influence, in the future, Russia will still be an important strategic partner of the EU and Gazprom will still be the EU's main supplier. This will happen because of the very competitive Russian gas prices and long-term supplying contracts that the EU has agreed with Russia and that go beyond 2025. The EU and Russia will, therefore, be partners in the future and, as such, in order to get the partnership on the right track, all the issues of EU dependence on Russian natural gas have to be solved in a diplomatic way and through dialogue and cooperation.

Still, from 1994 to December 2019, the EU could have achieved more in terms of gaining greater independence from Russian natural gas if it were not for the dual-take approach that resulted disagreements between the EU institutions and the member-states that took an active role in the definition of the EU's energy (security) policy. This has ultimately led to very few measures being adopted towards the development of a common EU energy (security) policy, despite the several measures that were put forward in this direction by the European Commission and the European Parliament. These measures were not innovative, still they clearly promoted the communitarisation of the EU's energy (security) policy. Nevertheless, the final decisions adopted by the Council of the EU (and that reflected the interests of member-states) would discredit the measures put forward by the Commission and the Parliament.

On the one hand, the EU institutions and member-states shared a highly securitizing discourse of the EU's dependence on Russian natural gas, on the other hand, they lacked agreement on tackling measures that would reduce this dependence. This lack of agreement was characterized by a dual-take

approach that reflected the differences between what the actors involved considered as threatening to the EU's energy security. Some actors framed Russian actions as economic threats, other as political, and other as environmental. The European Commission focused on protecting the European economy, the European integration, and the European citizens and consumers, therefore lacking interest about the national perspectives. The European Parliament focused on the protection of the EU citizens' way of life and on natural gas as a global good. The Council of the EU and some member-states in particular focused on their national energy systems and on their responsibility to ensure energy dependence by following economic interests. This divergence led us to conclude that contrarily to the European Commission and the European Parliament, member-states still do not perceive the EU as a reference and do not trust it as the most appropriate actor to deal with energy problems, even in times of demand for cooperation at the EU level. One of the best examples of this dual-take approach during this period was the European Commission Proposal to amend the 2009 Gas Directive (2017). The Commission's amendment would extend TEP rules (third-party access, tariff regulation, ownership unbundling and transparency) to new import pipelines, like Nord Stream 2. This would not only create additional bureaucratic hurdles for Nord Stream 2 to operate in the EU but would also mean a shift in energy (security) policy powers from member-states to the Commission, therefore giving the institution the so long-desired powers to authorize and block intergovernmental agreements between member-states and Russia. Obviously, this was not well received by many member-states, but especially by the ones with a national interest in Nord Stream 2, like Germany or France, which stated that the Commission's amendment extended the application of EU energy law beyond the EU borders without a proper legal basis and violated the sovereignty of member-states to determine their own energy policies, which was established under Article 194(2) of the TFEU.

With reference to the EU dual-take approach, this dissertation has argued that throughout the whole period of formulation of the EU's energy (security) policy between 1994 and December 2019, there was, many times, an incomplete implementation of EU internal market legislation by member-states, as well as tensions between bilateral and EU actions in the external dimension. This is what we have called EU dual-take approach, and what Thomas Maltby calls

“[...] an intergovernmental logic that remains at the core of EU energy security policy, undermining its coherence and effectiveness at least in the terms of supply diversification and supply disruption mitigation. For example, the progress of Russian backed large scale gas pipeline projects such as Nord Stream and South Stream demonstrate the prominence of

member state preferences within the EU, and the influence of their security and economic interests relative to the EU's objectives of diversification of supply sources which both of the Russian backed projects undermine" (Maltby, 2013, p. 442).

During this dissertation's analysis, we were able to understand if the dual-take approach that was inherent to each event or policy-making initiative (that constituted an integral part of the formulation of the EU's energy (security) policy) had either a more supranational or intergovernmental logic. Therefore, we were able to draw a table where we trace the most predominant logic of each event or policy-making initiative:

Table 1. EU dual-take approach (2021)

	EU Dual-take Approach		
	Commission + Member-States	Member-States	
European Energy Charter Treaty (1994)	X		Normative Power
First Energy Package (1998)	X		
EU-Russia Energy Dialogue (2000)	X		
Second Energy Package (2003)	X		
European Energy Community (2006)	X		Regulatory Power
Green Paper (2006)	X		
First Strategic Energy Review (2007)		X	
A Strong European Neighbourhood Policy (2007)	X		
Second Strategic Energy Review (2008)		X	
Lisbon Treaty (2009)		X	
Third Energy Package (2009)		X	
Response to Nord Stream (2011)	X		
EU-Ukraine Association Agreement (2012-2014)	X		

EU sanctions to Russian and Ukrainian Individuals, Officials and Companies (2014-2016)	X		
European Energy Security Strategy (2014)	X		Economic Power
Energy Union (2015)	X		
The rise and fall of the South Stream (2014-2015)	X		
EU-Turkey High Level Energy Dialogue (2016)	X		
EU-China Energy Dialogue and Roadmap on Energy Cooperation (2017)	X		
European Commission Proposal to Amend the 2009 Gas Directive (2017)		X	
Security of Gas Supply Regulation (2017)	X		
Southern Gas Corridor inauguration (2018)	X		
EU-USA (8th) Energy Council (2018)	X		
EU's LNG strategy (2019)	X		
EU's renewable energy strategy: The Green Deal (2019)	X		

Source: Author's own production.

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