

THE THIRD ENERGY PACKAGE GAS DIRECTIVE (2009/73/EC): COMPLIANCE IN
LITHUANIA AND ROMANIA

BY

ILIAS MARKOS BOLARIS

THESIS

Submitted in partial fulfillment of the requirements
for the degree of Master of Arts in European Union Studies
in the Graduate College of the
University of Illinois at Urbana-Champaign, 2016

Urbana, Illinois

Master's Committee:

Associate Professor Carol Skalnik Leff, Chair
Sebnem Ozkan, Ph.D

ABSTRACT

Threats posed to EU's energy security during the last fifteen years, made the Commission to develop the Energy Policy promoting the integration and the creation of the Internal Energy Market. The "Third Energy Package" was introduced in 2009 aiming to promote the liberalization of the market but not all the member states complied immediately; there were delays and differences among them. The focus of this study is the Directive 2009/73/EC and how Romania and Lithuania reacted and tried to transpose it into national law. By comparing them the study aims to find differences and to reach general conclusions about the Energy Policy and factors that determine the countries' responses and compliance. The paper analyzes the energy markets and the changes caused by the Directive, energy security concerns, the countries' general compliance stance, administrative capacity and corruption, national interests and foreign policy, domestic politics with changes of governments and possible pressure from interested groups because of cost-benefit calculations based on the specific Directive's provisions. The analysis shows that cold relations with Russia do not guarantee a country's compliance. Energy security issues explain Lithuania's willingness to comply but Romania's stance is not in line with the geopolitical role it wants to acquire in the region. An implementation that incurs domestic costs for the country and/or the political elites and does not directly benefit the country is more difficult. In Contrast, if the proposed legislation solves national problems, the country will be eager comply even if there is a cost in the short term. Considering these issues during the Policy formation process could improve the countries' compliance and reduce tensions and delays.

To my father Markos, my mother Kyriaki and my grandfather Ilias

ACKNOWLEDGMENTS

This project would not have been possible without the support of many people.

First of all, I would like to thank my adviser Carol Skalnik Leff. It was my honor to work with her. She patiently guided me and helped me to write my Thesis. I am grateful for her support and her generosity.

Also thanks to Sebnem Ozkan for her valuable suggestions and for being a member of my committee, and to Konstantinos Kourtikakis who helped me to start this project and guided me when I was lost and confused.

Many thanks to all the EU Center staff. Especially to Matt Rosenstein and Anna Steport who trusted me and gave me the opportunity to study and work for the Center and of course to Kim Rice who assisted me from the first time with everything I needed.

TABLE OF CONTENTS

CHAPTER 1: INTRODUCTION.....	1
CHAPTER 2: LITERATURE REVIEW.....	4
CHAPTER 3: METHODOLOGY.....	22
CHAPTER 4: ROMANIA.....	33
CHAPTER 5: LITHUANIA.....	62
CHAPTER 6: DISCUSSION.....	70
CHAPTER 7: CONCLUSIONS.....	78
REFERENCES.....	80
APPENDIX A: EXAMPLES FROM BELARUS, UKRAINE, GEORGIA, ARMENIA.....	94
APPENDIX B: TABLES AND GRAPHS.....	98

CHAPTER 1

INTRODUCTION

Although the European integration that started in the '50s had the energy sector at its core, the Energy Policy is one of the least developed in the European Union (EU). The Single European Act (SEA) (effective since July 1987) was a milestone for the Union, with more integration and introduction of a target for a common market. Unfortunately, energy was left out and based on the countries' reactions (that were very sensitive for their energy sectors) it was obvious that any plans for a more integrated energy sector would previously have been rejected by the member states. This is why the development observed lately, with the three consecutive Energy Packages (but mostly with the third one) was an unexpected turn; an advancement seen as impossible twenty years ago. The last ten years were the most productive ones for the energy sector. While energy policy has many parameters, the target for liberalization, which aims to lead to the creation of the common energy market, is primary. Energy integration efforts peaked in February 2015 with the Commission's Energy Union proposal and the single gas buyer mechanism. The Internal Energy Market is closer than one could have expected in previous decades.

The EU since the mid-90s has introduced several Regulations and Directives in order to implement its more ambitious policies. From 1996 to 2009 the EU introduced three energy packages with escalated provisions in an effort to liberalize and unify the national energy market. The "Third Energy Package" (TEP), was the third of these Packages and the step before the Energy Union Package of 2015. The TEP was adopted in 2009 and the two TEP Directives (Directive 2009/72/EC concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC and Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC) should have been transposed by 03.03.2011. While the EU wanted the common energy

market to be functional in 2014, not all the states were willing to transpose the Directives that expeditiously.

As the Energy Sector was traditionally sensitive for the member states it was not a surprise that the TEP's transposition was a long process and some countries found it difficult to follow the EU commands and deadlines. With EU provisions that force the member states to transpose legislation (under threat from the European Court of Justice), it is crucial to analyze how the member states reacted to the Third Gas Directive 2009/73/EC, the Directive under study here. This detailed legislation aims to liberalize the energy market, introducing tighter control over the transmission network businesses with a new unbundling¹ regime that separates energy suppliers from network operators. Energy security concerns and the way the energy sources had been politicized among other reasons made the transposition of this legislation more important for the EU Commission.

In this study, I analyze and compare how two new East European member states reacted to this Directive and which reasons were decisive for the transposition results and the decisions they took regarding their gas market. Energy security concerns, their general transposition stance, administrative capacity, corruption, political interference, domestic politics with party preferences and Government changes, national interests and foreign policy, and pressure from interested groups (because of cost-benefit calculations based on the specific Directive's provisions) have been identified as key variables that could affect the final outcome in terms of compliance and transposition. The countries that I am going to compare are Romania and Lithuania. In October 2014, the EU showed that Romania was the last country that transposed the Directive and here is the deviant case while Lithuania was the most eager country to transpose and is the frontrunner (Romania's opposite). The comparison aims to find differences and similarities, and to reach more general conclusions for the

¹ The separation of energy production and supply interests from the network. This should eliminate any conflict of interests between these activities. This separation should prevent network operators from favoring their own energy production and supply companies (EU Commission)

Energy Policy in terms of compliance and willingness to follow the common policy, diverging interests, relations with third countries, and the importance of the factors that seem to be decisive for the member states' responses. Analysis and understanding of these factors and how they affect and shape the countries behavior, is useful in order to achieve a more united and coherent EU policy.

CHAPTER 2

LITERATURE REVIEW

The Context of European Energy Policy: Scholarly and EU Perspectives

In this section, I will outline the general factors that generated the EU thrust toward an integrated energy policy, and elucidate the scholarly understanding of this process. The European Union is not rich in natural resources, but because it is developed and prosperous (despite the diversity among EU members and the West/East gap), it can afford to pay a significant amount of money in order to cover its high levels of energy consumption. Despite its wealth, the European Commission did not feel secure for its energy resources imports. The situation in 2016 is far better than it was two or ten years ago as the energy resource prices are lower and as Kantchev (2016) presented on February 25, 2016 the US gas supplies with the creation of LNG (Liquefied Natural Gas) Terminals are changing the balances, decreasing both the dependency on Russia and the prices (estimations for about 25% reduction in LNG prices). The European Commission and the literature have identified throughout the years several facts that were threatening the European Union's energy security. These are its rising consumption, its import dependency, Russia's stated intention to use its natural sources in order to influence countries and the 2007 and 2009 gas disruptions that caused problems in Eastern European countries and Greece, rising fuel prices, increased energy consumption in Asia which is going to rise even more in the future (mostly because of China and India). These factors combined with increased environmental concerns have increased energy policy's importance for the EU. As it is explained below several eastern member states were particular concerned and boosted the Commission's permanent intentions to create the common energy market have increased energy policy's importance. It is indicative that the energy policy is one of the priorities of the current Commission.

There are several facts showing the value of this study. First of all, the Third Energy Package and the gas Directive under study here (2009/73/EC), are not the end of the way towards the creation of the Internal Energy Market or the end of the EU Energy Policy formation and bargaining. It should be seen as one more step and a part of the whole energy policy and the integration will be continued with the EU Commission's plans. Thus, it is important to understand why several member states support or oppose the currently enacted legislation and how they have tried to react. The national choices and policies should be examined and analyzed, in an effort to be able to predict and minimize any problems in future legislation that could cause compliance delays and reluctance by the member states to transpose-implement and in order to achieve a more effective policy making in the Energy Sector.

The understanding of potentially conflicting national interests and possible disagreements between the countries becomes more important if we consider that external actors (both allies and non-allies) could adopt a divide and rule policy, something that has happened repeatedly in the past with the European countries antagonizing each other over pipeline and interconnection projects. Research Director of the European Centre for Energy and Resource Security at King's College, London, Frank Umbach (2009) wrote that from 2004 the EU sought to enhance its relations with energy important countries all over the world. It moved forward with the agreement on a common energy policy, but the countries were still not united in their policy and relations with Russia. As a result, Russia was still able to maintain its strategy for bilateral relations with several EU member states. Umbach (2009) agreed with Locatelli (2008) that the EU liberalization policy with the creation of a free energy market would harm Russia's role and influence over the EU. Decreasing the gas dependence is one of the most important targets that the EU Commission has, in order to

secure its Energy Sector and to increase its competitiveness through market liberalization that will lead to lower prices.

Third although a country analysis about the selected countries would seem like “old news” for people working on these country’s policies, there is the hope that a cross-country comparison will increase the value of this paper, and its analysis would be able to improve the current knowledge about this topic. The Third Energy Package required the separation of the gas related activities in an effort to assure that there will not remain powerful monopolies able to threaten the customers. Introducing this strict control prepared the ground for the next step, the Energy Union, announced by the European Commission in February 2015.

Several key factors converged to shape this EU Energy Union Initiative. I examine each in turn in the following discussion

Agenda setting

As I have already mentioned, the EU managed to develop its energy policy in recent decades. This was an unexpected turn and makes it interesting to understand how this happened. An agenda setting presentation will illustrate how the energy policy developed in this way and why the specific policy targets have been adopted. The agenda setting in energy policy and the actors engaged there are surprising. Ciambra and Solorio (2015) argued that the United Kingdom was a critical force in moving the EU to develop its energy policy and to move towards the energy market liberalization. They argued that during the 80s-90s the UK fostered its liberalized model and during the 2000s it wanted to be an environmental policy pioneer. They noted that although the EU strongly insisted on promoting its energy policies and it is recognized for its energy policy and the set goals, it was not the only actor. In contrast, the decision-making process was shaped by the “British tempo”, and there was a decisive British leadership that managed to put the issues on the agenda. According to the analysis of the data provided by Ciambra and Solorio (2015) (see Appendix B: Tables and

Graphs, Table 1), the UK promoted environmental aspects and a free market model. Buchan (2015) wrote that the 2004 enlargement and environmental concerns intensified EU's willingness to develop its energy policy.

European Energy Dependency

At the same time, the EU was indeed energy-dependent and there were significant changes in the energy indicators that made a new policy necessary. As energy dependency increases the countries should feel more threatened and more eager to have a common EU policy. According to the EU Statistical Pocketbook, (see Appendix B: Tables and Graphs, Table 2) gas production in the EU has decreased by 37% during the last fifteen years. Gas production was 209.4 (Mtoe) in 2000 but it fell to 132 in 2015. At the same time gas consumption (see Appendix B: Tables and Graphs, Table 3) in the EU has fallen to 259.8 in 2015 from 281.2 ten years ago. Despite this positive turn for the European Union, its gas imports dependency remains very high. Starting from 43.4% in 1995 it peaked in 2012 at 65.8%. If gas consumption had increased, the situation would be more difficult. The Energy Intensity indicator is the second positive point as it has decreased steadily from 174 in 1995 to 129 in 2015. This significant rise in its import dependency compared with the higher gas prices (as presented in Table 2), threatened the European Commission and it was obvious that it should act and implement its energy agenda.

EU not a united front

While the EU was facing this energy challenge, it had difficulties to act with a common voice in its external relations especially in terms of Foreign Policy. Schmidt-Felzmann (2011) starting from the energy policy, illustrated why the European member states have different interests and act in order to secure themselves. He noted that the member states wanted to secure energy imports through their bilateral relations with Russia. He identified several factors that can shape a country's national policy towards Russia. While their

traditional attitude to Russia, in general, is important the other factors are a) the share of Russian gas in total imports and production, b) the volume of gas imported and the size of the gas market, c) the alternatives to Russian gas supplies and their status in the supply chain. Transit countries are in a better position than the directly supplied state during disruptions. Countries importing gas from different suppliers are in a better position. Countries with high import percentage from Russia are weak if they have a small market and these should be the first that would like to diversify their sources. Thus, larger states-big importers, have different interests from small countries that consume. He also noted that Romania along with Hungary and Poland faced the most significant consequences of the 2009 disruption. As a result, one would think that Romania would be more eager to adapt EU policy and address its dependency on Russian gas and search for alternatives.

Schmidt-Felzmann (2011) further distinguished the member states into two broad categories. The first group, mostly comprised of eastern states, was concerned about Russia's politicization of Russia gas supplies (not trade based on free market rules but based on geopolitics and political decisions) and feel threatened by its intentions. In the second group are big and powerful members from the west feeling that they are benefited by importing gas from Russia. As a result, the member states wanted to secure higher benefits for themselves ignoring other states with energy problems or the common benefits. Similarly, they are interested in the construction of pipelines for their advantage. At the same time, the Commission's calls for solidarity might have been perceived as a way to enhance its position, becoming the decisive actor in the European foreign policy (something that of course could change the balance of power between the institution and the member states and concerns for such a development probably played a role in the way member states responded to the new EU policy and their adoption process). This situation was not constructive at all, and of

course, it could not be accepted by the EU which has tried to act in its external relations with a common voice. The fact that Russia was its main gas supplier intensified its concerns.

Russia

There is broad consensus in the literature that Russia wants to acquire its sphere of influence and dominate in the region. Beissinger (2009) wrote that the collapse and disintegration of the Soviet Union are seen by President Putin as a huge geopolitical catastrophe. It seems reasonable to argue that he would like to have prevented it, in order to maintain the then status quo. As a result, it is understandable that countries considered by Russia as part of its sphere of influence may feel threatened.

Moreover, Götz (2014) stated that Putin's policy is supported by many actors in Russia. Putin is not just an exception among Russia's actors, Russia, like every other major power, wants to dominate in its region. He also noted that the assertive Russian policy towards its neighborhood was not only because of Putin. He referred to Schmemmann's (1993) article presenting that Yeltsin in the early 1990s officially stated that he wanted Russia to be the "guarantor of peace and stability" of its former empire's countries. In this regard, the pre-Putin Russian engagement in South Ossetia, Abkhazia, Transnistria, Tajikistan, while demanding privileges from Kazakhstan and Turkmenistan and Ukraine (a country from which Yeltsin demanded to give him naval bases in Crimea even after the collapse of the Soviet Union), as Gotz (2014) noted is important, as is intervention in the domestic politics of Kyrgyzstan and Moldova, and the intention to establish bases in Belarus and Tajikistan.

The Russian Energy Weapon

The literature shows that during the last years Russia tried to increase the gas prices given to its neighboring countries. Since the Russian economy depends on the country's energy sources, it is obvious that it has the right to demand from countries with low and subsidized gas prices, to pay more, with the target to buy gas at the same market price as all

the other countries. But, although the increased prices for neighboring states were lower than the free market ones, the increases had been sharp and sudden. Many times the announcements seemed to be a surprise attack and an ambush or a barrier difficult to overcome in limited time. The alternative given every time to the countries was to grant to Gazprom access or even control to the natural gas pipeline and infrastructure. Although this policy was the same for all the countries, Russia tried to make it obvious that countries with pro-Russian governments had fairer deals with more moderate increases and agreed four or more year plans.

Nowak, Wiek-Karpowicz and Godzimirski (2015) argued that although Russia faces problems because of production capacity and lack of investments, it has indeed politicized its energy and offers cheaper prices to countries promoting its geopolitical plans and “massive discounts” to its closest friend countries. They showed that in 2014 the average gas price offered in Belarus was \$164, in Germany \$323 and in Poland \$379 (per thousand cubic meters).

Similarly, Woehrel (2009) presented that Russia has adopted aggressive policies in the past. He showed that Russia has used gas prices and disruptions in order to take control of the infrastructure and to promote its interests making it clear that it supports Russian-friendly politicians and countries, offering more fair deals and prices to them. He analyzed Russia's systematic policy towards Ukraine and he showed that with the same policies Gazprom took the control of Bultranas and it acquired 63.4% of MoldovaGaz (controlling Belarus' and Moldova's infrastructure) In addition Esther Ademmer (2015) presented in detail how Russia intervened in Armenia's and Georgia's energy sectors, trying to stop their energy sources diversification policies. It seems that Russia wanted the countries to be energy dependent and that it intervened when they tried to decrease the amount of their dependence. Russia did not want them to diversify the energy sources, nor to invest in renewable energy. In contrast, it

demanded itself to be the master of their infrastructure and to control the gas routes and outflows.

Thus, it can be argued that Russia, tried to increase its income, it tried to influence domestic politics, and it tried to take control of the domestic infrastructure and pipelines.

Several scholars have analyzed the use of energy as a weapon in order to influence and control energy import countries. Stegen (2011) discussing the energy threat Russia poses to Europe presented an energy weapon model adding a new, fourth stage

Figure 1. Energy weapon model (p. 6507)

Energy Resources in Country →
1. State Consolidation of Resources
2. State Control over Transit Routes
3. Implementation of Threats, Price Hikes, Disruption
4. Target State Acquiescence and Concessions
→ Energy Resources as Political Leverage

1. Stegen (2011) argued that the Russian Government has tried to control its resources. Starting from Vladimir Putin’s graduate thesis titled “Mineral Raw Materials in the Strategy for Development of the Russian economy” which illustrates his perceptions, she argued that Putin indeed believes that raw materials are crucial and he tried to secure and expand Russia’s ownership and control over them.
2. Moreover, she cited Stent (2008) agreeing that Russia during the last two decades was trying to secure the ownership of energy facilities and companies of energy dependent countries. What is more, she argued that Russia is trying to build pipelines in order to control the transit of gas and she presented several examples of Russia doing that, both in Europe and Asia.

3. Stegen also showed that Russia indeed used its energy sources for political purposes and she illustrated five examples with Russia trying to influence and manipulate domestic politics in neighboring states. Here it should be mentioned that the timing of a supply disruption (and of course of an increased price) is crucial. Similarly, when the price is different among countries, there are concerns for political games and she agreed with several scholars (Abdelal 2004, Bruce 2007, Jaffe and Soligo 2008, Myers 2006) that Gazprom did negotiate different prices.
4. The last stage depends on the state's reaction to the energy-rich country. She presented three examples that the energy weapon was not effective (the Baltic States in the early 1990s and the Russian demand to maintain troops there, Georgia and the Russian pressure to acquire its transit assets, Lithuania with Russia trying to punish it for selling its refinery to Poland) which is a proof that even weak states could resist an "energy attack", and two examples where it worked (Ukraine with the Victor Yanukovich 2010 agreement to allow the Russian Fleet to be in Sevastopol for 30 years starting from 2017, and the construction of the Nord Stream Pipeline for direct gas transmission to Germany²).

Based on Russia's policy towards third countries³ it should be accepted that Russia indeed uses its energy sources in order to influence countries, a tool of so-called soft power. In that way there are distinct energy relations models; one based on free trade and the other based on geopolitical concerns and political maneuvers. Schmidt-Felzmann (2011) presented two types of energy relations, the markets and institutions approach with liberal market principles and the cooperation, and the Regions and Empires approach where not the market but the geopolitics is primary with competition among states and national interests. He argued that the EU's external energy relations apply to the first model. As it was showed above with the Third Energy Package the EU Commission intends to liberalize the energy markets and in

²Decreasing the importance of the other pipelines for the EU and empowering Russia's position in future bargaining as the disruption would not affect Germany

³ See Appendix "Examples from Belarus, Ukraine, Georgia, Armenia"

that way it further promotes its “based on free trade model” that Schmidt-Felzmann (2011) identified. By enhancing its model aims to diminish the ‘rival’ model (the one based on geopolitical concerns). With that being understood by the member states, this analysis will show how Romania and Lithuania reacted. The contradiction is that because they are Eastern European countries, they should both be eager to promote the liberalization and the free-trade model, against the geopolitical one.

Buchan (2015) described the EU’s efforts to promote its model, the market principles, in other countries. In 1991, the EU introduced the Energy Charter Treaty (ETC) aiming through the free market to acquire secure and trusted relations with the former Soviets Republics, but Russia did not accept this treaty. Secondly, the EU acting as “normative power” (Manners 2002), created the Energy Community in order to “transfer’ its energy model with principles and rules, to countries of the south-eastern Europe that had not yet become EU member-states. According to the European Commission (COM(2011) 105 final) “Energy Community is about investments, economic development, security of energy supply and social stability; but – more than this – the Energy Community is also about solidarity, mutual trust, and peace. The very existence of the Energy Community, only ten years after the end of the Balkan conflict, is a success in itself, as it stands as the first common institutional project was undertaken by the non-European Union countries of South East Europe”. It is obvious that the EU’s main principles are at the core of the Energy Community.

The European Union is threatened

Stegen (2011), agreed with Yergin’s (2006), statement that the “tighter” condition in the energy markets and the precarious political situation in many energy exporter countries, led to apprehension in the energy import countries and to increased energy security concerns. Of course, the EU should be included in this category as it clearly is an energy importer. Moreover Schmidt-Felzmann (2011) noted that a long period of secure supplies from Russia

ended 11 years ago, as since 2004 the Russian deliveries have become problematic with several disruptions over prices (2004: Belarus gas, 2007: Belarus oil, Ukraine 2006: Ukraine gas, 2007: Ukraine gas, 2008: Ukraine gas, 2009: Ukraine gas, 2010: Ukraine oil and gas). Especially in January 2009 with the two weeks disruption the EU was seriously affected while the daily cost in Bulgaria and Slovenia was 350 euro million.

This is something that motivated the Eastern European countries (which were more threatened by Russia because of their past relations, geographic proximity, energy dependence) to demand a more unified policy. Many eastern member states led by Poland wanted to diversify their energy sources (Jeziorski 2006) and to reduce energy dependence on Russia (Geden, Marcelis, & Maurer (2006)). Brutschin (2015) documented the fact that several eastern member states led by Poland perceived the Internal Energy Market (IEM) more as a foreign policy and security issue. She agreed with Sirkoski & Olex-Szczytowski (2007) that the Nord Stream Pipeline was perceived as threat to Poland and with Whist (2008) who showed that many countries (Poland, the Baltics, Finland, Sweden) were united against Germany's agreement to the pipeline, she referred to Gazprom's intention to sell its gas at higher prices as presented by Dempsey (2005), and Parker & Ostrovsky (2005), and she noted the January 2006 and 2009 disputes over gas prices between Russia and Ukraine that showed Russia's power in energy supply terms as presented by (Jeziorski 2006) and she agreed with Geden, Marcelis, & Maurer (2006) that the energy problem was transformed into a national security one for the eastern European members that relied on Russian gas. These three facts were decisive for Brutschin (2015) and she agreed with Stern (2006) that the 2006 Ukrainian gas disruption was a milestone. In that way, it made the EU member states realize and accept the existence of the political threat posed by Russia through its energy resources policy. This situation was upgraded into a common European problem that mobilized the countries to move for a common solution. These countries were very

threatened and they managed to influence the policy making, adding the “Gazprom clause” (which secures the unbundling rule under the TEP will not give advantage to non-EU energy enterprises by dictating that these enterprises should “demonstrably and unequivocally comply with the same unbundling requirements as EU companies”) and the “regional solidarity” (which requests the member states to help and stand with any other member state that could face a problem or an emergency), terms in the directive. She wrote that while the competition was decisive while writing the first directive (when the unbundling became Commission’s target), foreign policy concerns were primary in the third directive. As Greenwood (2006) noted other countries became also interested because they understand that future disruptions could increase the gas prices, in general, affecting their economies as well. The EU’s concerns seem more reasonable and justified, in view of the Russo-Ukrainian conflict that started in 2014, when as presented by Business Insider, Europe has been threatened once more with gas disruption.

As a result, the Eastern countries acted and with the EU Commission changed the situation in the EU. Their energy threat was upgraded into a pan-European, a common one. Based on these facts, both Romania and Lithuania (and all the other eastern member states) should be eager to implement and follow a policy that was formatted after their request and their concerted efforts.

The EU develops its policy

The European Union presents on its site that has set three primary targets. These are diversified energy sources⁴, market liberalization⁵, and sustainable development⁶. With these three targets, it aims to eliminate three of its main challenges. The first one is its import dependency, which costs €350 billion per year. The second is the rising demand for fuels and

⁴“secure energy supplies to ensure the reliable provision of energy whenever and wherever needed”

⁵“energy providers operate in a competitive environment that ensures affordable prices for homes, businesses, and industries”

⁶“energy consumption to be sustainable, through the lowering of greenhouse gas emissions, pollution, and fossil fuel dependence”

crude oil which is not in abundance and the last one is the global warming caused by increased emissions.

In order to respond to these challenges, the EU has identified “key policy areas” that must be developed and organized. These are:

- J “A European Energy Union that will ensure secure, affordable and climate-friendly energy for EU citizens and businesses by allowing a free flow of energy across national borders within the EU, and bringing new technologies and renewed infrastructure to cut household bills, create jobs and boost growth”.
- J “A European Energy Security Strategy which presents short and long-term measures to shore up the EU’s security of supply”.
- J “A resilient and integrated energy market across the EU - the Internal Energy Market. To this end, new pipelines and power lines are being built to develop EU-wide networks for gas and electricity, and common rules are being designed to increase competition between suppliers and to promote consumer choice”.
- J “Boosting the EU’s domestic production of energy, including the development of renewable energy sources”.
- J “Promoting energy efficiency”.
- J “Safety across the EU’s energy sectors with strict rules on issues such as the disposal of nuclear waste and the operation of offshore oil and gas platforms”.

The EU perceives all these policy areas, as part of a bigger strategy for its energy and aiming to respond successfully, it has introduced the 2020, the 2030 Energy Strategies and the Energy Roadmap 2050. Reduced greenhouse emissions, increased share of the renewables, increased energy efficiency and interconnection for the internal energy market completion are permanent goals for the EU.

Internal Energy Market presentation and the Energy Packages

In order to create the Internal Energy Market (IEM) between the different member states, the Commission had to harmonize its laws and the rules. Thus, it prepared and proposed several legislative packages that would function as the guide to the final completion of the common market. Buchan (2010) wrote that during EU the last twenty-five years wanted to liberalize its energy market. While the main purpose was to secure free access for everyone interested in the grid networks, it did not manage to convince the member states, or to impose this free access program. It seems that the Commission adopted a step by step strategy in order to promote its liberalizing points. It undertook three Energy Packages (1996-98, 2003, 2009), in which there is a gradual escalation towards the market liberalization.

According to the EU, the Third Energy Package which is its last legislative piece for the internal energy market's function has five main targets. These are:

-) unbundling energy suppliers from network operators
-) strengthening the independence of regulators
-) establishment of the Agency for the Cooperation of Energy Regulators (ACER)
-) cross-border cooperation between transmission system operators and the creation of European Networks for Transmission System Operators
-) increased transparency in retail markets to benefit consumers

Buchan (2010) presented the differences between the three Packages (see Appendix B: Tables and Graphs, Table 4). In the Third Energy Package, there are two significant upgrades that function in order to ensure that there is free access to the grids. The first one is the “upgraded and harmonized powers” for the national regulators and the second one is the ownership unbundling. Furthermore, Kapapinskas and Urmonas (2011) identified the main targets of the Third Gas Directive (2009/73/EC). They agreed that unbundling was the primary target of the Directive. They also presented how the Directive's annex enhanced consumers' position by introducing more rights for them, and thirdly how it seeks (with

article 39: parts 4-5) to make the national regulators more independent with precise tasks and duties while it (with article 41) gives more responsibilities to them. Dudau and Simionel (2011) illustrated the targets of the Third Energy Package: a) transport system operators independent from energy producers, b) completely free access for others to retail deliveries and storage capacities, c) national energy regulators independent from the national governments, d) social protection without harming the competitive character of the market).

The EU offered three different models for the member states to accomplish the unbundling target. The first one is the “full ownership unbundling” which requires the member states to move forward with the separation, creating an integrated company to undertake the transmission activity. The second model was the Independent System Operator (ISO) model, with provisions that the operation must be independent but allows the ownership to remain at the current company. The ISO which follows the unbundling rules, monitors and controls the function of the network. The third model was the Independent Transmission Operator (ITO) which requires the companies to respect the law and ensure that the different operations are independent and it does not change the assets and the status of the companies. A company participating in the network can be the title-holder of the ITO.

This was a significant development, planned to tackle the challenges that was facing the EU. Nowak, Wiek-Karpowicz and Godzimirski (2015) noted that the Third Energy Package was a negative development for Gazprom while the implementation of the Energy Union (package presented by the EU Commission on February 25, 2015) could harm Gazprom even more.

Agenda and Decision Making Process

Eikeland (2011) agreed that Russia was a significant factor but his analysis pointed to interesting considerations both in the internal and external sphere. Here it should be remembered that the European Commission had tried many times to forward the Third

Energy Pack's target (market liberalization and the unbundling introduction). Its proposals had been rejected several times, but with the Third Energy Package, the Commission succeeded. Starting from this point, Eikeland's (2011) analysis is very helpful. He wrote about the reasons why the Commission managed to successfully establish its proposals with the Third Energy Package, moving forward liberalization of the energy markets, at a time that powerful member states like France and Germany were totally opposing such a turn. He analyzed how the European Commission with the Third Energy Package proposal on 2007 moved beyond the "legal unbundling" that was in force since 2003 and which demanded separation of the production and supply activities from the network activities. Although in June 2007 the Energy Council opposed to a possible change, the EU on September introduced the MOU (mandatory ownership unbundling) for the national energy companies. This shows the Commission's determination to move forward in order to tackle the security problems and concerns.

In addition, he identified three very significant points for the decision-making process. The three big organizations (Eurelectric, European Transmission System Operators/ETSO, and the European Federation of Energy Traders/EFET) did not lobby against the ownership unbundling in Brussels. At the same time that consumer's organizations "stood united in demanding MOU" (Eikeland, 2008). Also after concluding interviews in Brussels Eikeland identified a "shift" in Commission's stance with the Directorate General for Competition (DG COMP) becoming very sensitive to protecting consumers' rights while industry federations weighed in to argue that the market was manipulated and supported the unbundling. As he noted, with the 2020 strategy of January 2007, the EU made market liberalization a primary target for the future. The behavior of "Vertically integrated energy groups" towards the energy infrastructure was identified as a negative reality that was discouraging new investments and was leading to high prices.

Eikeland (2011) also defined “three plus five factors” that were decisive for the Commission decision to move forward. He wrote that the DGs COMP and Energy and Transport (TREN) in 2006 decided that the legal unbundling was not enough. There was a lack of free access to infrastructure, something that was raising the prices, vertically integrated producers opposing competition and not allowing others to use the infrastructure or to build new, something that undermined the EU’s willingness to invest in renewable resources to combat climate change, as well.

These three problems were combined with five other significant developments. First, the rising import dependency (especially after the eastern enlargement and declining European gas and oil production). Second, the rising prices and demand by other growing economies. Third, the unstable Middle East. Fourth the eastern enlargement that increased the EU’s dependency in combination with its declining oil and gas production. Fifth, concerns about secure gas supply because of Gazprom’s influence over companies in Europe, the eastern enlargement and of course the gas supply distractions (2006 dispute with Ukraine).

The Competition Directorate was very important in this process. Buchan (2015) agreed that GD COMP had a driving role, as it concluded that the separation of grids and networks was essential and necessary. He commented that Commission’s cooperation with the DG’s EN and COMP for the market liberalization as a successful development occurred lately and that using antitrust measures it managed to forward its targets. Moreover, Eikeland (2011) showed that the DG used the ECJ and its infringement procedure in order to pose a threat to great companies (such as the German E.ON); it offered them deals for reduced fines if they gave up their networks. If the Commission managed to prevent the companies from mobilizing the states against its proposals and helping other actors in domestic politics to demand a better chance from their governments, the Commission’s proposal would not be threatened. But when the German E.ON accepted the ownership unbundling in order not to

pay the infringement fines, the German minister declared continued opposition to the proposal. Buchan (2015) wrote that the European Commission found allies in thirteen countries that legislated the unbundling, before the EU's proposal. He also established that as the UK turned into a gas importer in 2000 it changed its view on energy policy becoming interested in import sources. Its robust support for the Commission was critical in the decision-making progress. Similarly, Maltby (2013) wrote that the EU developed its policy as its import dependence and the prices rose, the situation aggravated by eastern enlargement, and it was threatened by the two gas disruptions from Russian suppliers.

CHAPTER 3

METHODOLOGY

This study analyzes the political situation in the selected countries of Romania and Lithuania and compares the results trying to identify differences and similarities between them. I evaluate of the decision-making process in each case and analyze the factors that appeared to determine their specific responses. It is easy to predict that decisions for one sector are affected by other sectors and facts could greatly vary between the countries. For energy data, the study will rely on Eurostat and Commission's presentations. In order to illustrate and analyze the countries' positions, the study will rely on EU documents (press releases and records), interviews and public statements in the media, governments' official papers and policy reports illustrating a national policy, and academic papers. Also, because one of the main points of the study is policy formation at the national level, the study should rely on literature discussing policy and foreign policy formation.

Case Selection

The first criterion for case selection is geographic region: the Eastern member states, with their proximity to the Russian energy markets and their identity as former Soviet Republics and members of the Soviet bloc, are the focus of the study. The selected countries are Romania and Lithuania. The second criterion is achieving variation in policy response. Romania was not pleased with the gas Directive (2009/73/EC); with Ireland, it was the last country that transposed the Directive in Fall 2014. Although Romania was an east European country with strained relations with Russia, active in security issues, it was not willing to transpose and to follow the common strategy. Lithuania was a country highly interested in following the European Policy because it was facing significant energy problems; it was

isolated and characterized as an “energy island”⁷. These two countries seem to represent two opposing poles with low and high support for the third package of energy legislation respectively. Both new member states are post-communist countries from the Soviet bloc. Thus, it is expected that there will not be fundamental differences as far as security concerns and as this Directive is related to security and Russia, both the countries should, in theory, be highly interested in transposing. The fact that their responses were nevertheless different calls for further analysis.

Variables

In trying to understand how each country reacted to the Energy Package, this analysis relies on several variable factors. As a case in point, Maltby (2015) showed that Bulgaria, a country with traditionally close relations with Russia (the EU’s main gas supplier), decided to change its policy following the European guidance for integration and the development of a coherent energy policy. As a result, this analysis could not just depend on good relations with suppliers and geopolitical threats.

Energy security concerns have been identified as a primary reason for the current development of the energy policy. The literature below, establishes that the eastern European countries were extremely concerned about energy security, they insisted on this issue, and they managed to add it to the agenda. Although energy security was significant, it is not easy to measure it. There are many indicators that should be considered and there are different patterns adopted. Therefore, the analyst should examine the energy indicators and also analyze the geopolitical situation with the risks and the prospects for each of the studied countries. Marin-Quemada, Garcia-Verdugo, and Escribano (2012) in their book on European energy security proposed a quantitative method with two components. Firstly, Garcia-Verdugo and Munoz (2012) presented simple and composite indicators that can be used to

⁷ Lithuania relied completely to Russia for its gas imports, something that changed only in October 2014 with the arrival of the LNG terminal at the Lithuanian port Klaipeda

measure energy security. They noted that using different indices is counterproductive and among the composite indicators, they chose the Energy Affinity Index (EAI) because it does not include geopolitical factors. For the second category, the geopolitical risks, they chose to use factor analysis, and they measured different kinds of risk (economic, energy, political, social). Secondly, Garcia-Verdugo, San-Martin, and Munoz (2012) presented their Socioeconomic Energy Risk Index (SERI), that focuses on geopolitical risks, to complete the energy security measurement. In that way, the Energy Affinity Index and the Socioeconomic Energy Risk Index can measure and compare the situation in a broad selection of countries.

While incorporating their model and its results, this study will also focus on the causal mechanisms based on factors and causes that led the countries to choose their policies. The paper will focus more on how the countries perceived the energy security issue, how threatened they felt and how they showed that they were threatened. The main reason is that not all the countries have the same effectiveness in predicting the level of their energy security based on such a model; even in those that could precisely predict, such a prediction does not mean that the government and the elites will adopt/adopted the directive; finally, even the governments that were threatened did not act in a predictable pattern.

Besides, we can decide how threatened was a country by analyzing its official decisions and the way it acted in its external relations and at the European level. The energy indicators (the energy dependency, the energy intensity, and the prices) included here depict what was happening and the countries' actions (after our analysis) will show the importance that each country gave to its energy security. It would not be a surprise if a country has not identified the problem and thus has not acted in order to improve its position and secure its energy sector. With the step by step process and the causal relations between facts, the study will try to identify (if a country deviated from the common policy) which variables were more important giving stronger incentives to these countries. This assessment is not only

valuable, but it is also something that large-N quantitative studies measuring the energy security, cannot do.

Secondly, the study should focus on the directive's provisions and the specific sectors that it affects. The first significant policy change is ownership unbundling⁸ and the second one is the national energy regulator's function and responsibilities. Thus, it is necessary to analyze the energy market. The role of the state-owned monopolies and their ability to intervene and shape the national policy has already been identified as a critical factor (Eikeland 2011). Thus, these two points of the study seem to be significant.

Thirdly, because the main issue is the different degree of willingness, to comply with energy integration, it is necessary to examine each country's stance towards the European Integration in general and for the energy sector specifically. While there are many different models, here it is preferred to observe how the countries react to new legislation and whether they are willing to transpose it into their national legislation and to respect it. As a result, the infringement procedures opened by the European Commission against the countries and the different (escalated) levels of actions that the Commission had to undertake in order to finish the transposition process, will be used in order to evaluate their stance and to compare them. Here it should be stated that there is access to the dates and the decisions taken by the EU with regard to the infringement status of the country but I cannot routinely access the specific documents and the detailed evaluation of the proposals-legislation proposed and introduced by the member states. It would be valuable for the subsequent deepening of this study to supplement the often extensive public discussion of each decision with the acquisition and analysis of these EU technical documents. It would offer a more detailed picture of the

⁸In Romania already had it but in Lithuania was the problem. In Romania the problem was the prices but in Lithuania they preferred a period with high prices in order to forward the unbundling policy.

assessment of the national laws that did not transpose the Directive correctly and received the EU's criticism or those that were accepted and closed the infringement procedures.

Fourthly, because the main theme here is a Directive's transposition, the existing literature on this topic offers a valuable guide on how to approach this issue. There are variables identified that affect the transposition process in general, and it seems plausible that they could have affected Romanian and Lithuanian behavior towards the third gas directive. In a large-N study, Luetgert and Dannwolf (2009) tried to account for cases of late transposition across a range of issues. They distinguished between "institutional and preference related explanations". Institutional explanations focused on the time given to states until the transposition deadline, whether the directive is new or amending (easier to transpose amending ones) and the different legislative procedures (Commission > Council > EP and Council of Ministers). They mentioned that in general possible capacity restrictions (tight deadlines and the domestic inability of actors) are significant as well but too difficult to measure quantitatively. In this paper, there is only one Directive. It had an amending character and was introduced by the European Commission. Thus, these two considerations are not relevant for explaining the variations among cases. The time of the transposition will be used for the country comparison. As far as the capacity restrictions are concerned, the qualitative country analysis has a greater opportunity to try to capture this effect. For this variable, the paper will focus on the political bureaucracy's function including all the elements that prevent the domestic actors to transpose, like corruption, political interference, lack of personnel (quality-quantity).

For the second preference- related explanations, Luetgert and Dannwolf argued that if the new legislation has negative consequences the countries will prefer not to transpose. Domestic and party preferences are central here. The differences among political parties in their stated preferences for the specific sector and possible changes of the government should

be considered as well. For this reason, the paper will try to identify what are the national interests of the countries and whether they are different from the EU's and if they conflict with another country's interests. If the gas directive is perceived by a member state as a negative turn, the EU should react and with consultation with its government to clarify more precisely the common targets-benefits in order to overcome this negative turn.

In addition to the interests and the benefits, partisan and popular preferences will be also considered. The change of government will also be kept in mind, but since there is only one Directive and only the energy sector, the paper will also focus on Energy Ministers' changes, even when the PM and the parties supporting the government do not change. Finally, problems can arise if a country was outvoted or obliged to compromise during the EU-negotiations⁹. This point will also be included in the analysis with a study of the decision-making process and the stances adopted by the countries at EU and international level.

Countries' Compliance

As the main issue here is the countries' behavior, it should be measured what is their transposition behavior and how they approach this issue. The countries selected in this study are former Soviet Republics and Soviet bloc countries that join at a later time the European Union. This is why the transposition pattern is challenging.

Ulrich Sedelmeier (2005) wrote that there were concerns in the EU that after the "Big Bang" accession in 2004, there would be problems with implementing EU legislation in the new member states. For this reason, the EU pressed candidate states to comply with the *acquis* before they acquired membership status. Sedelmeier argued in later work (2008) that although conditionality has been criticized for various reasons, it is broadly accepted that it was a very successful policy. He agreed with Judith Kelly (2004) and with Schimmelfennig and Sedelmeier (2005a) that the incentive to become a member-state was decisive for the

⁹ In the Directive under study the countries were given three different choices which means that it would be easier for them to comply and implement the legislation.

successful application of pre-accession conditionality, and not the social learning or the Commission's efforts to persuade the candidate countries. The lack of that incentive after accession seemed to create a gap that could lead to changes in the behavior of the Central and Eastern European Countries (CEECs) once they gained membership. Furthermore, he argued that the three most important points for appropriate compliance ("compliance costs, administrative capacities, societal mobilization") (p.807), were less effective in the new member states than in the older ones. The "eastern problem" predicted in the compliance literature for the future of the EU seemed to be a big obstacle for the Union. Although the European Court of Justice could impose high payments for not transposing EU legislation and the EU "safeguard clauses"¹⁰ for the first three years after accession could restrict several of their membership rights, these measures are much weaker than the pre-accession threat to deny membership status.

Sedelmeier (2008) also noted that the infringement procedures initiated by the Commission depict only the formal implementation and what the EU institutions were able to find themselves which might create a gap between this formal compliance and the practical implementation which might be problematic with the countries, in the end, not respecting the European legislation despite their formal stance/compliance. Significant role have civilians, companies, and groups that are interested in the implementation of the law as they are able to criticize the national government. He found that for the years 2005 and 2006 in EU15 countries (the countries that were member states before the 2014 enlargement), 50% of the infringement proceedings were initiated after complaints raised by the public and interest groups (the EU institutions had not identified these problems by themselves), while the percentage for the EU8 countries (the post-Soviet Republics that joined the EU in 2004: the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia) was

¹⁰ The safety clauses are elucidated in EU Commission Press Release, Frequently Asked Questions about the Safeguard Clauses Memo5/396 October 25, 2004. http://europa.eu/rapid/press-release_MEMO-05-396_en.htm?locale=en

only 22-24%. Secondly, the easiest to initiate infringement procedure, the “non-communication”, it started one-third of the EU15 infringement cases and 46-56% of the EU8 ones. It is more likely that in new member countries the civil society is not developed enough, the infringement procedures do not illustrate accurately the situation and they are just a “starting point” for a possible transposition study. The problem identified by Sedelmeier about existing issues that remain undiscovered could be even worse in Romania (which was not included in his study but it is an Eastern European country), as its civil society is less developed. Despite that, the discussion here includes only the transposition communication which is a process control by the EU institutions. While it should be noted that Romania is a Post-Communist Republic and the expectations (for all of them) were low for their first years, undetected problems in its legislation (what Sedelmeier noted) are not an issue for this study.

Sedelmeier’s (2008) conclusions changed the situation. He showed that during their four first years the EU8 countries actually transposed better than the EU15 countries the EU legislation and they closed the infringement cases quickly. He also reasoned that the threat of sanctions (safeguard clause set for the EU8 until May 2007 giving the right to the EU Commission to undertake measures against the new member states whose behavior could harm the Union) does not explain the EU8’s good behavior, as good compliance continued after the deadline of the clause. He suggested that explanation might be that these countries got used to establishing the laws quickly during the accession process, reducing parliament’s power aiming to make the process more effective and fast. A second theory is that these countries might feel obliged to the EU and want to have a correct stance towards the institutions. It should be noted that unlike Lithuania that did follow this pattern, Romania, was not included in this study and it is not part of his conclusions.

Sedelmeier (2008) evaluated the state behavior with three measures. Firstly the transposition of EU legislation (how many directives were transposed by the deadline and

how many later), secondly the number of infringement procedures of EU law (the procedure that the EU opens against a member state when the latter fails to transpose EU law) and thirdly the settlement of the infringements. Here it should be mentioned that he cited Borzel's (2003) statement that the EU Commission does not perceive its formal notices as part of the infringement procedure as such but rather as the step before its initiation. As a result, the number of Reasoned opinions will be used to compare the countries' general compliance stance. Because this paper discusses the late transposition of a directive, Sedelmeier's third point will be excluded from the comparison.

Following Sedelmeier's (2008) method to evaluate state's behavior, the study analyzes five elements. Infringement Cases open at the end of the year, New late transposition infringement cases, Reasoned opinions Art. 258 TFEU, Referrals to the Court Under Article 258 TFEU, Referrals to the Court Under Article 260(3) TFEU¹¹.

General Compliance Stance Comparison

Looking at the general patterns of compliance for the two countries would establish a broader tendency to cooperate consistently with a specific behavior on the energy directive. As Lithuania had a more satisfactory general stance we might predict that Romania's general compliance record would be worse, and Lithuania's better. As I will show, the evidence for this is clearly depicted.

According to Table 5a (see Appendix B: Tables and Graphs, Table 5a), in 2009 Romania had 32 open infringement procedures, Lithuania had 28. This was a good score for Romania, but it should be mentioned that it was an early period (its third year being a member state. On December 31, 2013, Romania had 47 open infringements and it was ranked 16th among the EU countries, Lithuania had 25 and it was ranked 3rd. The next year there is deterioration in both countries but in Romania was more intense. On December 31, 2014,

¹¹referral for absence of complete transposition with the Commission able to propose financial penalties already at this stage without having to wait for a first judgment

Romania had 68 open infringements and was ranked 22nd among the EU member states, Lithuania had 26 and was ranked 6th.

Romania's cases increased dramatically from 2012 to 2014 which is a negative trend while the trend in Lithuania is positive decreasing its infringements to 2010 level.

In the early years, the table 5b (see Appendix B: Tables and Graphs, Table 5b) shows a sharp increase of new late transposition infringement peaking in 2010 in Romania and in 2011 in Lithuania followed by a rapid decrease in 2012. After that it appears a negative trend for Romania as the great decrease that happened in 2012 with only 15 new late transposition infringements was followed by an increase in 2013 with 21 and another (bigger one) in 2014 with 37. Thus, 2012 is again a turning point as there is a negative trend for Romania which in 2014 Romania was ranked 26th while Lithuania has stabilized its late transposition infringement almost at 2012 level and in 2014 the country (13) was ranked 8th. There is a clear gap between the two countries and someone could expect Lithuania to comply faster. Based on these findings we can argue that the general compliance matches the compliance on the energy directive.

Moreover, Romania has been referred to the Court under Article 258 TFEU six times (period 2008-2015) and Lithuania has been referred seven times (2006-2015). As far as the Reasoned Opinions Art. 258 TFEU Lithuania has again the advantage. Romania received 85 reasoned opinions¹² since 2008 and Lithuania 55 since March 2005 (14 of them before Jan 2008).

While Lithuania has never been referred to the Court under Article 260(3) TFEU¹³ this happened three times to Romania, with two of them being the Third Energy Package's Directives 2009/72/CE and 2009/73/CE, in March 2013. The third was in November 2015 in

¹² The letter the EU Commission sends to member states (if they do not reply or reply unsatisfactory to the Commission first notification (Letter of Formal Notice)) in order to state the reasons why it believes they have breached EU. National government has 2 months or less to comply.

¹³ referral for absence of complete transposition with the Commission able to propose financial penalties already at this stage without having to wait for a first judgment

the energy sector with the Directive 2012/33/EU. Since October 2011, 71 such referrals have been made, and it shows that Romania was not a problematic country but it indeed had problems with the Third Energy Package.

In conclusion, Lithuania's overall compliance numbers are better than Romania's in every single measure. The year 2012 is a negative starting point for Romania which would suggest that a change happened in Romania. At the same time, the fact that two out of the three cases that led the EU Commission to refer Romania to the Court under Article 230(3) TFEU, shows that the Third Energy Package was a particularly problematic case for Romania. Its general compliance behavior is by far better than what happened with the TEP's implementation and one could argue that this situation was somewhat unique (despite its general slow/problematic record). The opposite can be stated for Lithuania which over-performed and its decisive reaction to the TEP's implementation was clearly better than its general compliance behavior. As a result, a closer analysis is required here.

CHAPTER 4

ROMANIA

Although Romania is an Eastern European country that joined the EU less than a decade ago, in January 2007, it delayed transposing the two Directives of the Third Energy Package that would further liberalize the energy market. The EU Commission had to open infringement procedures for Romania and to refer the country to the European Court of Justice in order to obligate Romania to assume its responsibilities. In Fall 2014, the Commission stated in an evaluation report, that only Ireland and Romania had not managed to secure the Third Energy Package's full transposition. In that way, Romania can be seen as a deviant case as (with Ireland) it was the last country that transposed the directives, during the first stage of Commission's monitoring period. Although the Commission started the second stage of its monitoring role, identifying "incorrect transposition or bad application" of the Package, Romania's stance during this first period shows that it had several problems and it was not eager to transpose the legislation.

In this section, I will document Romania's delays in transposing the Third Energy Package, and examine the series of factors postulated to explain the country's compliance behavior. Us.practicallaw.com¹⁴ wrote that by 2014 Romania's gas market had grown, including more participants. Specifically, it was composed by:

-) National Transmission System Operator: Transgaz Medias; six providers (Romgaz, OMV Petrom, Amromco Energy, Raffles Energy, ForajSonde and Stratum Energy).
-) Two storage operators (Romgaz, and Depomure).
-) 39 distribution operators (the largest DistrigazSud and E.ON Gas Distribution Networks SRL SA).

¹⁴ Practical Law is a legal publishing company acquired by Thomson Reuters which provides legal information for business lawyers

J 39 suppliers operating in the regulated natural gas market.

J 63 suppliers operating in the competitive natural gas market.

As it has already been noted, the EU's Third Energy Package aimed to impose a tighter control over the transmission network activities while three different options were given to the member-states in order to implement the unbundling. Romania chose the Independent System Operator (ISO) model (the model that allows the vertically integrated companies to own the network but the ISO (which is a different entity) is the manager of the network and it controls the network's operation.

In April 2013, the CEER (Council of European Energy Regulators) wrote on its Status Review on the Transposition of Unbundling Requirements for DSOs and closed Distribution System Operators, that Romania had already unbundled its gas market in 2008 separating the distribution and supply activities of the market. Thus, Romania's DSOs had not to re-brand (name and logo) when the Third Energy Package came into force. Dudau and Simionel (2011), observed that Romania between 2000 and 2008 (its accession in the EU) was eager to liberalize its market. They noted that two-thirds of the market were liberalized and that there was a significant development in production, transport, distribution, retail capacities, being separated in a significant scale. Despite that, Romania faced infringement procedures initiated by the EU Commission. Thus, this is one more point showing a significant contradiction between what seemed simple and possible to happen and what happened. This is another point that raises questions about Romania's interests and adds value in this analysis because one could predict a fast transposition by Romania.

Infringement Procedures

The European Union oversees every national government and intervenes when the member states do not implement the EU law. The same applies to Romania and the Commission has opened infringements for the country. It is interesting that Romania has been

referred to the ECJ only three times for energy issues, and the two of them are the two Third Energy Package's Directive, something showing that these two directives "annoyed" Romania.

In October 2014, the European Commission published its evaluation of the progress made for the establishment of the Internal Energy Market. For this target, it is crucial to understand that the implementation of the third energy package is comprised of three Regulations ((EC)No 713/2009, (EC) No 714/2009, (EC) No 715/2009, and two directives 2009/72/EC and 2009/73/EC . The deadline given to the member states to transport the two directives was March 3rd. 2011. On September 2011, the European Commission opened 38 procedures against 19 states. Three years later, on September 2014, the two directives had been fully transported in all but two member states, Ireland and Romania.

As the EU notes on its official web page, the infringement procedure for Romania opened in September 2011 when it sent a formal notice based on art. 258 TFEU. That was the first step of the infringement process with the European Commission expecting the Romanian government to reply within two months. The formal notice was not enough, and in February 2012, the Commission moved to the second step of the infringement procedure for the member states that did not reply satisfactorily to the formal notice. It sent fifteen reasoned opinions (explaining why the member states have not respected the EU law) to Romania and to seven other member states, Bulgaria, Cyprus, Spain, Luxembourg, Netherlands, Slovakia, and Estonia. The latter had not informed about its transposition measures for the Directive 2009/73/EC and the others for both directives (2009/73/EC and 2009/72/EC). After that, these countries had two months in order to change their legislation and meet the requirements. Despite that, Romania did not act accordingly and did not fully transpose the two directives to its national legislation. As a result, a year later, in March 2013, the European Commission referred Romania to the Court of Justice of the European Union. In a

Press Release on March 21 it noted that the remaining provisions required for the complete transposition-related to the protection of consumers and some duties for Energy Regulator, issues were characterized as significant.

According to the European Commission, it is rare to reach this third stage of asking the European Court of Justice (ECJ) to open litigation procedures, as more than 85% of the cases are agreed during the two first stages. The transposition of the two directives introduced with the Third Energy Package seems to be obtrusive for many member states, as Romania was not the only member state referred to the ECJ. For each Directive, the Commission proposes the daily penalty of €30228,48 and if the Court judges against the member state, the state has to pay from the day of the judgment until the full adoption of the EU law to its national legislation; the final amount will be decided by the Court. In that way, every country has strong incentives to transport the directive by that time of the infringement process. Especially when like in Romania's case, the directives are two, and the daily penalty is double. With regard to Romania's incomplete transposition of the directives, the problems were the consumers' protection and the need for a precise demarcation of the Energy Regulator's duties. Romania responded on September with the Law 127/2014 that according to a report made by "Tuca Zbarcea Asociatii" wanted to separate in terms of ownership, generation, and supply from the transmission. Leroy Si Asociatii wrote that the 127/2014 Law, according to its explanatory memorandum, aimed to transpose the two Third Energy Package Directives. Romania had attempted to transpose the Directives (Law no. 123/2012 and Law no. 160/2012) but the European Commission had not been satisfied. The latest law (127/2014) amended and supplemented the second Chapter (Natural Gas) of the 123/2012 Law. The main changes are for the transmission systems and their operation. It introduced the "ownership unbundling" for all the new gas transmission systems that will be created in

Romania. Also in their report, they mentioned that Romania amended its Petroleum Law (238/2004) as it regulates the natural gas and its transport.

On October 13, 2014, the EU Commission presented its reports on the progress made by the member states. In Romania's report, it stated that the country adopted amendments on September in order to transpose the Third Energy Package, The European Commission meant the Law no. 127/2014 (amending and supplementing the Electricity and Gas Law No. 123/2012 "Electricity and Gas Law" and the Petroleum Law no. 238/2004 "Petroleum Law") that was passed by the Romanian Government on September 30 2014; it was published in the Official Gazette, Part I, No. 720 on October 1, 2014, and it came into force on 5 October 2014. Three days later, on October 16, 2014, the Commission withdrew its infringement case No 20111114 against Romania for the Directive 2009/73/CE something that signaled the transposition of the Directive. The 127/2014 Law satisfied the Commission and ended Romania's obligation to transpose the Third Energy Package Directives, which proved a long process that should have been concluded by March 3, 2011.

As the Romanian Agency for Energy Conservation (ANRE) presented on its 2014 National Report, in 2014 some significant developments took place. Transgaz SA was certified to function as an independent system operator while at the same year ANRE enhanced the consumers with the Order no. 106/2014. This order requires natural gas suppliers to give details to their consumers about the gas supply terms. This is a protection from possible cuts contract termination price increases fees etc while at the same time the consumers are able to decide whether the price is acceptable and can compare the prices on the market (as the suppliers must have standard offers). This would be a significant help for all the natural gas consumers. Dudau and Simionel (2011) wrote that the Third Energy Package included provisions for helping consumers if the prices rise very much after the deregulation. The target was the protection of "vulnerable" people that should be precisely

defined with a law. It is obvious that Romania's policy to help all the households and some industries, was clearly opposite to the TEP's target and a shift of policy was required.

How can we account for Romania's delay in compliance?

Energy Dependence

The energy dependency index shows the extent to which an economy relies on imports in order to meet its energy needs. The indicator is calculated as net imports divided by the sum of gross inland energy consumption plus bunkers. This variable shows how vulnerable a country is to disruptions and to geopolitical threats from energy producers.

As Table 6a (see Appendix B: Tables and Graphs, Table 6a) shows the EU's gas dependence has risen significantly during the last two decades. Starting from 43.3% in 1995, it rose to 57.1% in 2005, it reached 67.1% in 2011, in 2013 was 65.2% and it peaked in 2014 with 67.2%. The EU's all products dependency (see Appendix B: Tables and Graphs, Table 6b) has increased as well during the same period. It was 43.1% in 1995, 52.2% in 2005, it peaked at 54% in 2011 and in 2014, it was 53.4%. Unlike the EU, Romania's gas dependency was 24.9% in 1995, 30.1% in 2005, it fell to 21.3% in 2013 it was further decreased in 2013 to 11.8% and in 2014 was only 5% which means that it was 62.2 points lower than the 67.2% that had the EU 28 for that year. It's all products dependency was 30.3% in 1995, 27.6% in 2005, and only 18.6% in 2013 and it was further decreased in 2014 to 17%. The gap between Romania and the EU28 average is gigantic. Such a difference could make Romania less threatened and allow it to feel that its energy sector is not a significant concern.

According to Eurostat, the country ranks as the third most energy independent country in the European Union, experiencing a fall in energy dependence from 22.7% in 2012 to 18.6% in 2013. However, without new oil and gas sources, Romania's energy dependence is expected to exceed 50% in ten years' time.

Energy Intensity

Energy Intensity is the ratio between the gross inland consumption of energy and the gross domestic product (GDP) for a given calendar year. It measures the energy consumption of an economy and its overall energy efficiency. High energy intensity means that there is a high cost of converting energy into GDP and low energy intensity means that the cost is low. As Pointvogl (2009) argued, in the case of supply disruptions, Energy intensity shows the possibility of a socio-economic distortion.

Table 7 (see Appendix B: Tables and Graphs, Table 7) shows that this indicator is one of Romania's weaknesses. Although the situation has been improved, the country performs poorly compared to the EU (28) average. In 1995, it was 551 (toe/M€10) and 2 decades later, in 2013 was 243 (reduced by 55.89%). The EU (28) average was 174 in 1995, 68.4% lower, showing that Romania is much more likely to face adversities as far as a socio-economic distortion. As a result, here there is an unclear result. Based on its import dependency levels, Romania should not be very interested in integrating. On the other hand, its energy intensity is very high, showing that it is not as powerful as the first indicator shows it to be.

Prices

The EU Commission has repeatedly mentioned that the Internal Energy Market legislation introduced by the Directive 2003/55/EC and restated by the Directive 2009/73/EC requires that the EU consumers must be able to buy natural gas on the market without obstacles. The supply-demand rule should set the prices while intervention by governments with regulated prices could function as barriers blocking possible third companies from entering the market and compete by giving lower prices. Because of the regulated prices, there is a dual problem (barriers for companies to enter the market and invest – higher prices for consumers who are not free to choose the company they prefer). As a result, any regulated

prices cannot be accepted by the EU law (the Court of Justice has set specific criteria under which existence of regulated prices does not oppose the Internal Energy Market legislation – Case C-265/08). As in Romania’s gas market, the regulated end-user prices were still applicable to all the consumers, the Commission decided that Romania’s legislation was problematic and demanded Romania to change its legislation. The Commission sent a Reasoned Opinion Art. 258 TFEU to Romania on 06/04/2011 and it closed the case in 27/09/2012. Despite that it is presented below the regulated prices persisted in Romania for more years.

Similarly, on July 10, 2014, the Commission presented its main decisions on infringement cases. It called on Romania to stop obliging its producers to give priority to sales on the domestic market and to stop submitting gas transactions to prior control and approval. According to the European Commission, its laws formed export barriers; they contravened with TFEU Articles (35 and 36) and with the Directive 2009/73/EC Article 40(c) (Third Energy Package Gas Directive) and that was unacceptable. The Commission warned Romania that it would refer it to the EU Court of Justice if Romania would not reply in a two months period. The European Commission mentioned this issue in Romania’s report (October 13th).

The second factor that could shape Romania’s stance is the level of the gas prices. As shown, Romania has cheap gas and does not seem to share the common European concern about the high prices in the energy sector.

Gas prices tables ¹⁵

As shows Table 8a (see Appendix B: Tables and Graphs, Table 8a), the prices for medium-size households have risen in Romania from 4.792 (Euro per gigajoule) in 2005 to 8.651 in 2015 and in the EU(27) from 11.21 in 2005 to 18.47 in 2015. Although the Gas

¹⁵<http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=ten00118>

prices in Romania have almost doubled during the last ten years with gas being 44.61% more expensive, Romania's 2015 price is significantly lower (22.83%) than the EU(27) average price of 2005 and 53.17% than the EU(27) average of 2015.

As shown in Table 8b (see Appendix B: Tables and Graphs, Table 8b), the prices for medium-size industries have risen in Romania from 3.678 in 2005 to 5.749 in 2015 and in the EU(27) from 6.01 in 2005 to 9.25 in 2015. The Romania's gas prices increased by 36.02% and the EU's (27) by 35.03%. Therefore, the gap remains. Romania had 38.8% lower prices in 2005 and it had 37.8% lower prices in 2015. Thus, although the prices are increasing in Romania, the percentage difference between Romania's and EU's average prices, has remained and they are still much lower. The country during all these years had much cheaper gas prices. Although the gas disruptions from Russia can harm it economically (mostly because Russia is its only supplier while Cunningham (2015) reported that in October 2015 Romania was in search for alternative gas imports), compared with the other member states it would be easier for Romania to overcome the problems, because of its low dependency on gas imports.

The prices (and the low import dependency) does not seem to have motivated Romania to discuss strategies for energy security with the other East Europeans and to cooperate with them as they could not be its main problem. Gas prices seem to be a significant element and a reason that could explain Romania's reluctance to promote liberalization. Us.Practicallaw.com mentioned that Romania has regulated prices and after the deregulation (agreed with IMF and EU) the prices will be higher. Considering that in the Internal Energy Market, the prices would be determined by competition, the Romanian companies will no longer be obliged to sell specific amounts of gas in the domestic market, and through interconnection the companies will be free to sell gas in all the countries, the prices in Romania will rise. Even if there is not only one price in the IEM, its function will

bridge the big gaps and will eliminate the large differences. As it is illustrated below, Romania did not want this result and its governments repeatedly postponed the deregulation of the prices.

Romanian economist Anamaria-Cristina Andrei noted that the EU's main purpose with the TEP was to finish natural monopolies and regulated prices making the free market values and competition dominant and guarantor of a fair and secure market function. It was a strong belief that competition and free market values would make the market more functional. But Andrei also wrote that the liberalization would increase the number of Romanians that cannot afford to buy gas. She concluded that Romania's big problem is that its citizens will have problems to buy gas at the increased prices, something that will have negative consequences in their lives.

The affordability problem can be illustrated in Table 9 (see Appendix B: Tables and Graphs, Table 9) which compares the GDP per capita of Romania and three random countries that would be interested in gas prices and possible "importers" of Romanian gas. The 100 is the EU average.

Table 9 shows that Romania's GDP per capita was 49 percent of the European average in 2009 and peaked to 55 in 2014. It has increased during the last years, but it is significantly lower than the EU average (100). therefore, it is reasonable to argue that it would be hard for the Romanian gas consumers to afford a "European" gas price, decided in the free market. This element compared with the price comparison could justify Romania's stance.

Hence, market liberalization with the deregulation of gas prices became a significant problem for Romania. The country did not manage to implement the EU rules and seemed to question their value doubting that they could work to Romania's benefit. Despite that, it is important to note that not all the Romanians shared this belief about the Third Energy Package. Dudau and Simionel (2011) concluded their report, calling for the completion of the

Package and acknowledged the benefits for their country, stating that the TEP with the market liberalization, through competition would benefit the consumers; it would boost the investments in the energy sector; it would lead to interconnections with other countries and it would improve Romania's energy security.

According to us.practicallaw.com ANRE (the Regulatory Authority of Energy in Romania) regulates the prices for the regulated part of the market and companies are obliged to sell a minimum amount of their gas in the domestic market. It was decided that the minimum percentage in 2015 would be 35%, 30% in 2016. The minimum in 2017 and 2018 is 25% and 20% but there are volumes destined to specific functions that are excluded and not counted to the 2017 and 2018's minimums. Also, Romania has decided that the companies first must provide gas to the Romanian regulated market (households and thermal power plants providing heat to houses) and after they meet their percentages they can sell the gas to others as well. In 2008 almost 60% of the market was free and deregulated but the rest of it was under ANRE's control. Despite the 2008 situation, they argued that Romania has several characteristics opposed to the Third Energy Package. Dudau and Simionel (2011) said that there are powerful "state monopolies" in Romania and as a result there is no real competition in the country while the regulated price in the gas sector is much lower than the EU average. They mentioned that in 2009 ANRE regulated a price 160\$/1000 m³ which is stable while the imports increase to 20% of the total consumption and their price is 400\$. In that way, the state monopolies are identified as a problem for Romania.

This situation had several results. First, the two companies GDF and EON imported gas and they could resell it at much lower prices. In this manner, they benefited and Romania was losing a significant amount of money. Second, as big consumers (industrial companies) had the privilege to buy gas at low regulated prices, it is reasonable that there is suspicion about their relation with government officials and politicians. By this means people with

connections bought cheap electricity from Hidroelectrica and they could profit by selling at higher prices. It is clear that big companies are benefiting, there are signs that politicians help these companies (an action that when it takes place illegally is not simple political interference but rather a criminal offense and a strong sign of bribery and political corruption.). What justifies and strengthens their (Dudau and Simionel (2011) claims is that (as they wrote) President Basescu had expressed similar thoughts claiming ANRE is politicized and fully controlled by the Prime Minister. Besides, Dudau's claims seem justified by the fact that (business-review.eu wrote in June 2014) the ANRE's vice president, Claudiu Dumbraveanu was detained by anti-corruption prosecutors. He was acquitted by the Bucharest Court on June 2, 2015, but the case was not closed as this was the first level (first instance decision) and the decision will appeal to the Court of Appeal according to anticoruptie.hotnews.ro. The other two participants in the case are Florin Gugu, Enel's director, and Gheorghe Ciubotaru associate of SC ElectroAlfa International SRL. Considering that with the Third Energy Package the EU has called for an independent and non-politicized the national regulator, ANRE's functioning was (in 2011) a very significant shortcoming for the energy market in Romania.

The European Parliament states that if the EU wants to create its IEM (Internal Energy Market), countries should move forward with "the removal of numerous obstacles and trade barriers; the approximation of tax and pricing policies and measures in respect of norms and standards; and environmental and safety regulations". It is obvious that the regulated prices in Romania and the obligation to sell a specific amount of gas in the domestic market, contradict with what the EP identifies as necessary for the future of the EU energy sector. At the same time that the EU wanted "fair market access and a high level of consumer protection as well as adequate levels of interconnection and generation capacity",

Romania was not allowing the companies to sell as much gas as they wished; hence, the country was criticized and referred to the ECJ for inadequate consumer protection.

Although the target was the IEM to be in operation by 2014, Romania's energy sector is still not fully liberalized. Chambersandpartners.com in a report contributed by the Romanian law firm "Peli Filip", noted that the obligation for producers (until the end of 2018) and suppliers-traders (until the end of 2016), to sell specific amounts of natural gas in the domestic market, were considered as trade barriers by the European Commission which again in July 2014, requested their elimination. The liberalization process that started in Romania in order to enter the EU was not concluded and the regulated prices remain there all these years after the accession; this can be seen as a big shortcoming that the country has repeatedly avoided moving to deregulation.

It is indicative that although there were official agreements, laws were established, and official timetables were presented, Romania moved to cancel and postpone them. The "us.practillaw.com" wrote that the government implements the schedule agreed with the IMF and the Commission and liberalizes the market in 'quarterly steps'. As far as companies, there are deregulated gas prices since January 2015. According to the 2011 agreement, the residential prices were to rise gradually from 07.01.2014 to 07.01.2015 but Romania stepped back and decided to delay deregulation of its prices until July 2021. It is obvious that the price liberalization process has not yet been successful at all. Romania with its centrist government had agreed on a deregulation plan in March 2012 but this plan was canceled after the fall of the government in late April. Then Ilie (2012) had predicted that the next government would halt the agreement because of the elections that would take place in the next year. Savu and Timu (2012) reported that on June 14, 2012, the Romanian Parliament passed a law (186-3) for the gradual deregulation of the gas and electricity prices. The overwhelming vote shows that the problem was not just the PSD government and Victor

Ponta, but that the denial was a common stance adopted by the whole political system. Although someone could justify the Romanian political elite by arguing that it is a poor country and that it is always more difficult to deregulate prices in the middle of an economic crisis, it should be stated that Romania had not estimated how much would affect the household gas prices a deregulation. Reuters noted that they had just promised to help the poorest people and when this is the only action (without a long-term plan/policy) should be rather seen as an effort to increase popularity among voters. In contrast, Romania should try to cooperate closely with the EU and the IMF trying to find ways to enhance its energy market, and investments are only one of them (but a very effective one). As the country was in great need for investments in the energy sector seeking for funds it should be easier to support market liberalization and the Third Energy Package. According to the EU Commission and to the European Parliament the third gas directive with the implementation of the unbundling is going to increase investment and improve the infrastructure. According to govnet.ro, on December 5, 2014, the Energy Ministry of Romania estimated that the country needs investments of €100 bln until 2035 while the networks of distribution and the transport are one of the reasons why Romania needs these investments. At the same time, Dudau and Simionel (2011) had recognized that the Package will attract investments and it will create interconnections. In addition, it is clear that the regulated prices harm the energy sector. Ilie (2012) noted that in Romania investors were avoiding Romania because of lack of clarity and tight tariff caps. According to the World Bank, price deregulation is a key point for investors that think to invest money in a country as competition and transparency with prices related to the costs, guarantee their investment. Silvia Vlasceanu (head of the Romanian association of energy utilities) insisted that deregulation will automatically increase the investment. As a consequence, as Romania needed investment, it should have been a priority for the country the immediate implementation of the unbundling.

The second “promise” came in 12.13.2012 when the ministry of economy presented its plan for the price deregulation. Wiresee.news wrote that starting from January 1st, 2013, they intended to increase the price by 143% for companies and 19.4% for houses and energy producers, until 2014. Furthermore, Reuters wrote that on September 17, 2014, the Romanian Parliament decided to delay again the deregulation of residential gas prices for two and a half more years (July 2021). The Energy Minister Razvan Nicolescu defended the decision characterizing Romania’s deregulation as very ambitious, at the same time that the average wage had decreased by 1% and the gas tariffs had increased by 16% in the last two years). Similarly, the English-language news agency nineoclock.ro reported that in February 2014 Bruno Ribo the general manager of ArcelorMittalGalati stated his disagreement with the agreed schedule of the deregulation. Arguing for an extension in the deadline set for the deregulation of the industry gas prices, he explained that Romania imports gas at higher prices than other European s (something that should be further investigated here) and that they first secured different importers and after that they deregulated their prices. Similarly, Eric Stab, the general manager of GDF Suez Energy Romania, noted that the deregulation should be delayed because the market lacked mechanisms to set a price. It is clear that while IMF and EU were pressing Romania for the deregulation, there were poles in the country arguing against this policy.

Dudu analyzed on the Central Europe Energy Partners ceep.be that although Romania had promised to implement the first phase of the deregulation process with residential prices, on October 1, 2014, the government stepped back changing the date to July first. He commented that like all the former governments, the current one wanted to benefit politically by giving cheap gas to its citizens. This is the second point showing that all the parties adopted the same stance, suggesting that their decision was based on political calculation and their intention to ingratiate themselves with the Romanian voters. Similarly,

Anca Michalache (2014) reported that since 2012 several big producers like Interagro and ChemgasSlobozia were arguing that more expensive gas could destroy their competitiveness and they were lobbying in order to prevent the deregulation for non-households. The result was that the Minister of Energy proposed a delay, but he did not manage to convince the European Commission. The non-household gas price was finally deregulated. According to Michalache, the decision to cancel the scheduled deregulation was taken without the EU's consent with Prime Minister Ponta declaring that Romanian Parliament's decisions are more important than the agreed timetable of deregulation. In that way, it became clear that it was difficult for Ponta to respect and implement the agreements with the EU. He also claimed that "obligations must have in mind the best interest of household users", a statement clearly showing that the Prime Minister not only disagreed with the price deregulation and the market liberalization but that he had a strong belief that this policy was not decided for people's benefit and that it harms their interests. It is a statement that gives a political dimension to this issue adding ideological elements in the argument (open market requested by the capitalists vs affordable gas for the lower income citizens). Similarly, the Romanian Energy Minister had announced that he would resign if the government did not postpone the household price deregulation. Mihalache also charged that the Energy in December 2014, tried to postpone the price deregulation for the small and medium enterprises (SME's) despite the fact that it was less than a month for the new period with deregulated prices (January first) and the enterprises were already making the payments (virtually) at the deregulated price (89.4 Lei/MWh (€20,4)).

Andreas Walstad, the EU policy and Regulation editor for Interfax energy reported that Romania faced problems because of its legislation to ban exports, something set by the Law no 123/2012. The target was to satisfy domestic demand before supplying third countries with gas. This obligation came from Romania's policy to rely on its own sources

and not on imports. Romania's main gas supplier is Russia but the Russian gas is much more expensive than the Romanian. This is why although Romania should sell gas to its neighbors (of course its gas producers would be eager to sell it) the amount of exporting gas is low.

Walstad also argued that powerful industries press the government to maintain the cheap gas prices. According to one of his interviewees that companies can threaten the government that deregulation would force them to "make redundant" their workers, something that could have harmed the government in the Presidential elections set for November 2014.

Dudau wrote on ceep.be that on November 6, 2014, (probably following the 2011 agreement) the Romania's national regulator (ANRE) decided to move forward and liberalize non-household prices from January first. Therefore, the non-household consumers should negotiate until the end of the year, the unregulated prices with the companies, and if they did not, the regulated prices would automatically be extended. Dudau's criticism for this process and his prediction that politicians (again all the politicians in general and not just the acting government) would continue their interventions seem to be reasonable. At the same direction, Dudau and Simionel (2011) mentioned that the governments before the 2012 elections that brought Victor Ponta to the power held the same stance on energy regulation. The governments were reluctant to move forward and ANRE simply agreed with them. This example is particularly useful because it summarizes the two main causes, politician's populism and ANRE's dependence on government.

National interests and foreign policy

The relations between Romania and Russia never seemed to be good because of disputes over Moldavia, Bessarabia, and Northern Bukovina. There were many interventions and clashes between the two countries throughout the centuries; it should be noted that the Romanian nationalism rose with arguments such as that the Romanians are not Slavs and that they have strong ties with Europe because of their Latin origins. Although a more detailed

illustration of the relations between the two nations throughout the centuries could be interesting, in the contemporary context it is probably sufficient to note that the unresolved Moldova-Transnistria issue is enough to maintain cold relations between Romania and Russia (King 2001). When the Russian Army helped the Transnistrians to divide Moldova, Romanian nationalism peaked and it seems impossible that relations between Romania and Russia could meliorate.

In contrast, Romania, especially after its NATO/EU accession, can be seen as an anti-Russia country. Roth (2015) argued that Romania formed an “Americanized” foreign policy; it was willing to support U.S. policies in the region and wanted to have a primary role as a US ally in order to improve the security, to stabilize and to democratize the region.

Dudau noted that the 2014 Russo-Ukrainian crisis intensified the threat. The Russo-Ukrainian conflicts that led to the annexation of Crimea remind Moldovans and Romanians of the Transnistria events, intensifying the Russian threat and reviving tensions and emotions from 1992. The annexation of Crimea is a game changer. Russia becomes an EEZ neighbor while the shelf boundaries in the Black Sea are of great importance for Russia and Romania (which is interested in searching for natural resources there and has drilling plans). Given this present threat, Romania could not be isolated from the European policies and could not rely on Russia for energy resources. In this respect, it is evident that Romania does not have different interests from the EU.

Pawel Olechnowicz, the CEEP Chairman of the Board of Directors, noted in February 2015 that Romania’s government was the first that supported the Energy Union proposed by Poland and that Romania could have a significant role in EU’s energy security going forward. Moreover, he noted that although in the past Romania was “considerably insecure” in energy terms, recent developments in infrastructure and interconnections are changing this feeling. Geden, Marcelis & Maurer (2006) wrote that Romania in January 2006 participated in the

discussion with other East European countries aiming to reduce gas dependence on Russia. Correspondingly Roth (2015) noted that Romania like Poland strongly supported NATO's activation in the energy sector, because of energy security concerns characterizing Romania as a member of the EU "anti-Russian axis" along with Poland and the Baltics. He wrote that Romania wanted the diversification of energy supplies (as petroleumreview.ro presented it supported the EU's policy against South Stream with its Energy Minister noting that the EU legislation should be respected and that the EU should support Ukraine permanently) and a common policy that could stop the countries' bilateral bargaining with Russia. In this manner, Romania was one of the more interested EU countries in promoting a common energy policy against Russia.

Disruptions

Although Romania is a gas producer with low imports, Dudau commented on naturalgaseurope that both the 2006 and 2009 gas disruptions affected the country that faced economic costs. As a result, it is clear that Romania has the security incentive to promote the EU policies. The fact that Romania is an energy producer country, with various energy products that could overcome supply interruptions more easily than other member states, does not seem to affect its behavior. Romania remains concerned about Russia's geopolitical threats and wants a common European policy and strategy. Eduard Rudolf Roth (2015) wrote that following the Crimea annexation in 2014 Romania demanded a powerful reaction from NATO. It wanted military presence for its own security and to "prevent a contagion" in Moldova. Although such a scenario can only be seen as highly unlikely, Roth's statement shows Romania's insecurity and fear.

Domestic politics - party preferences

Romania's alignment early in the post-communist period was unclear. Scholar and security analyst Simona Soare wrote that in the early 1990's Romania was negotiating both

with Russia and the West while President and former communist official Ion Iliescu in 1994 stated to CNN that Romania had two options and it was pursuing either to join NATO or to become an ally of Russia. The government applied to join the European Union in 1994 and followed up with petitioning for western support to join NATO. In fact, as Ziberman and Webber (2003) wrote the Romanian public was the most enthusiastic among the post-communist states in its support for NATO membership. Thus, by the mid to late 1990's, and especially after a broad anti-communist coalition came to office, displacing the National Salvation Front/Social Democratic governments, Romania was tilting westward.

The PSD that had lost in 1996 came to power again in 2000 and in 2001, it tried to restart diplomatic relations with Russia. The period from 1997 until 2003 (when Iliescu, restored to the presidency, traveled to Moscow) there had been no diplomatic contacts between Bucharest and Moscow. Since 2004 Romania has been a loyal NATO member opposing Russia's policies and moves in the region (missile defense system, Georgia crisis, support for Ukraine etc). The election of Traian Basescu as President of Romania seems to have been decisive. He became President in 2004 and without delay he stated that Romania had to diversify its Foreign Policy. NATO and London became touchstones for its security. While its traditional Foreign Policy targets were not to be isolated, to prevent a power (any) to dominate in its region and to guard its integrity, after its NATO and EU accession Romania tried to have an active participation at the EU level, to have strong ties with NATO and to be active in its region and neighborhood. Eduard Rudolf Roth (2015) characterized the former President of Romania Traian Basescu as pro-American and noted that he was an important part of Romania's criticism for Russia's energy behavior. The relations with Russia have deteriorated, with Simona Soare concluding that Romania and Russia have indeed "tender" relations because of Romania's errors and mistakes and Russia's reluctance to recognize Romania as a regional leader (a role that Romania dreams of acquiring).

The highly controversial former Romanian President Traian Basescu has nonetheless been praised for his stance securing and enhancing the “route” to NATO membership. Basescu was indeed a significant factor in Romania’s effort to process its reforms. His election and his actions as acting President were positive for the Europeanization and the Atlantic orientation the country took¹⁶.

Politics

Romania’s accession process already gave warning that compliance with EU directives might be complicated by weak state capacity and corruption. Pridham (2007b), noted that there was the fear in the EU that Bulgaria and Romania after their accession would not be willing to continue their reforms, that there was not a strong political will for reforms in their countries and that as the membership would have been achieved, the lack of conditionality incentives would stop the modernization process. In fact, the two countries were not admitted in the “Big Bang” enlargement of 2004 and entered in 2007 under “safeguard” monitoring clauses that had not been applied in the 2004 expansion.

Three months before the accession of Romania, the European Commission accepted the accession but also it highlighted several areas that Romania should further develop. The justice system and the fight against corruption were some of the most important. In the justice system, although there was progress, the Commission concluded that “a fully consistent interpretation and application of the law in all courts has not yet been ensured”. There was progress in the fight against corruption as well but the Commission noted that “there needs to be a clear political will to demonstrate the sustainability and irreversibility of the recent positive progress in fighting corruption. In the Parliament, there have been some attempts to substantially reduce the effectiveness of such efforts. Corruption remains a concern in

¹⁶ Despite that it should be mentioned that there was a corruption case that almost “touched” him. As Economist presented he was elected in 2004 with an anti-corruption and a pro-EU agenda but he faced a corruption scandal in June 2014 because his brother was caught receiving a €250.000 bribe in order to help a criminal with his sentence while according to CNN his competitor Adrian N stase (Prime Minister of Romania 2000-2004) in July 2012 was sentenced to prison for taking bribes.

particular within the local government and that there is a need for a clear political will to maintain and protect the efforts undertaken and even expand them”. Similarly “further progress was needed in the area of money laundering and the fight against fraud and corruption”

Pridham (2007b) noted that there were more concerns than in the 2004 enlargement because the EU’s conditionality in the pre-accession process was more difficult in Romania’s case (especially on justice and corruption areas), and there was pressure in European Parliament to suspend the negotiations. Transparency International was evaluating Romania as the most corrupted country in Europe,¹⁷ its economic reforms were slow, and it had significant problems with its state capacity and the policy making environment was not appropriate. Pridham wrote that Romania was the hardest case of all the countries that joined in 2004 and 2007 (except Bulgaria’s final year) and that with the EU’s pressing and obliquely threatening it, the country finally managed to satisfy partly the institutions and enter the Union.

In that way, although Romania had not fulfilled the criteria, it was accepted in the EU with the conditions that it would remain under EU monitoring control and that if would not cooperate, then it could lose EU funding (something that proved to be effective) and the other members could deny recognizing its court’s decisions. According to Trauner (2009), the Commission knew that it was unlikely for Romania to fully follow the EU policies and law but a delay in its accession would undermine its reformist efforts and would be counterproductive. Trauner (2009) also agreed with Papadimitriou and Gateva (2009) that security concerns were significant in EU’s decision to accept Romania with a full membership status despite not being ready. It is interesting that Pridham (2007b) comparing Romania, Latvia and Slovenia argued that in terms of political will, Romania was “weaker”

¹⁷Transnational International’s Corruption Perception Index for 2015 shows a slow gradual improvement in this area over the past five years. <http://www.transparency.org.ro/>

than the other countries because of PSD (Social Democratic Party) government's limited commitment to cooperate with the EU and noted that the 2004 change of the government led to more reforms. Here it should be noted that this party returned to power on 7 May 2012 and governed until Victor Ponta's resign in November 2015, a period that the EU opened the infringement procedure against Romania for the Directive 2009/73/EC.

Despite this lack of political will, there were specific points that motivated Romania. Trauner (2009) accepted Philip Levitz and Grigore Pop-Eleches (2010) conclusion that the post-accession monitoring by the EU, the incentive to receive the EU funding, and Romanians working and living in Western Europe that would strongly support a continuance of the reforms, are three significant factors that could guarantee a good compliance behavior by Romania. He noted that the problem was its handling of elite corruption, something very important for the EU. In 2008, it became obvious that judiciary was problematic when the Constitutional Court obstructed investigations against Prime Minister Adrian Nastase, two Ministers and other officials¹⁸. Although the situation was difficult, Romania followed the European commands for judicial reforms and it was praised for its commitment. The EU reports praised Romania (July 2008), noting that it was critical the initiated investigations lead to arrests, prosecution, and reasonable sentences. Trauner (2009) also noted that the parties did not support the fight against elites' corruption and the EU had to press the Romanian Parliament (July 2009) to maintain its corruption reforms. The EU warning was directed all the political parties and was more negative than Pridham's (2007b) accusation of PSD behavior.

Pridham's statement about PSD's negative role is highly pertinent to this analysis as that party was in power in the critical period of TEP (non-)compliance. PSD is the left wing party of Romania. It ruled from 1992 to 1996, from 2000 to 2004 and in 2012 it came again

¹⁸Nastase was subsequently twice convicted of corruption and served prison time.

to power with Victor Ponta becoming Prime Minister. He was a controversial Prime Minister who resigned in November 2015 because of intense anti-corruption demonstration and his exit was welcomed by many Europeans. It is indicative that Schwartz (2015) described his resignation as a positive turn. As the PSD was in power during the period of interest to this study, its role should be examined carefully.

Very early in his first term, in July 2012, the new Prime Minister Victor Ponta decided to suspend President Basescu¹⁹. He abolished the constitutional ordinances that were regulating the impeachment proceedings in an effort to decrease the Constitutional Court's role and he abolished the 50% participation clause, needed for the referendum that would approve or disapprove the President's suspension. Sedelmeier (2014) analyzed Ponta's 2012 behavior in Romania and characterized it as "democratic backsliding". Geiner (2012) reported that, the President of the Commission Mr. Barroso characterized Ponta's actions as "exceptional" events and that "challenging judicial decisions, undermining the constitutional court, overturning established procedures and removing key checks and balances," had "shaken" the EU's trust in the country. Correspondingly, Verseck (2012) gave a detailed presentation of Ponta's actions and the showdown, reporting that several "Romanian observers" characterized them as a "very clearly a coup d'état". But Ponta changed his behavior soon. Sedelmeier (2014) noted that Victor Ponta quickly agreed to follow the EU commands and end this incident, and in this manner, there was no need to impose sanctions in Romania. But his behavior and disrespect for the rule of law and the constitution, right after he took office, are indicative of his beliefs and their questionable proximity to the EU values and norms.

At the same time, Prime Minister Victor Ponta faced significant corruption accusations. Purgaru (2015) reported in September 2015 that DNA (The National

¹⁹ Another impeachment proceeding against Basescu had failed in 2007

Anticorruption Directorate) was investigating the then acting PM Victor Ponta for forgery in documents under private signature, complicity in continued tax evasion and money laundering in engagement with two state-owned energy companies, showing (beyond the corruption) that the function of these companies is subject to problematic political influence. The Prime Minister argued that DNA is obsessed, does not act professionally and is Romania's big problem.

Similarly, Purgaru (2015) reported on Oct 20, 2015, that DNA accused former cabinet minister and current MP Elena Udrea, of passive bribery, money laundering, influence peddling, and forgery. Already under investigation for other suspected corruption, Udrea in this case, was suspected of asking five million dollars so that a businessman could buy cheap energy from Hidroelectrica, a stated-owned company. Elena Udrea, out on bail after arrest in this case, described the charges as politically motivated. DNA's claims, even if they don't hold up, show that corruption hovers over the energy sector with politicians being able to request privileged contracts from the stated-owned companies and that the company directors might respond to the demand to give privileged contracts. According to Ilie (2012) the World Bank had noted that Hidroelectrica was losing 226-338 million euros each year while Reuters reported that almost 25% of the market's prices (this applies to the electricity market) were controversial deals between Hidroelectrica and companies (50% of the market had regulated prices and only the remaining 25% was decided on the free market). It can be argued that the situation in the gas market could not be by far different.

Corruption was not only a big problem for Romania and Ponta who was accused by DNA while he was the acting Prime Minister. There are points indicating that the PSD government was fomenting this problem. The Economist presented that Ponta resigned in November 2015 because of anti-corruption protests (the largest since 1989) and President Iohannis appointed as Prime Minister Dacian Ciolos who had been EU's Commissioner of

Agriculture. Ponta was under pressure because of DNA charges of forgery, laundering black money and evasion of taxes, but because of his immunity DNA was not allowed to investigate the period that he was a politician. Furthermore, the Economist illustrated that although DNA's work in 2014 led to convictions of 1138 people (including mayors, MPs, ex-ministers, and an ex-Prime Minister) in 2012 Victor Ponta condemned DNA to be the successor of the communist police. This high level of corruption cases combined with Romania's lack of a complete Energy Policy as presented by energypost.eu, seems that has damaged Romania's energy sector and its prospects.

In contrast to this situation the Romanian people wanted a real change in their country. According to the EU Commission, Romanian people support the process to tackle corruption under the aegis of the Co-operation and Verification Mechanism, imposed on Romania when it acceded to the EU. The Flash Eurobarometer of November 2014 illustrated a significant support for the EU and its involvement in the process (79%) while 73% thought that the EU contributed to the judiciary's improvement and 67% to the fight against corruption.

This support described here became obvious in 2014 when the Presidential elections had an unexpected result. On November 16, 2014, in the second round of the Presidential Elections Klaus Iohannis was elected President of Romania defeating the Prime Minister Victor Ponta (Social Democratic Party). Klaus Iohannis, an ethnic German, was a liberal politician and the mayor of Sibiu, in Transylvania that focused his campaign on arguing for judicial independence and the need to respect the rule of law. Despite the claims and the protests of electoral fraud organized by Victor Ponta, he secured 54.5%. The President is elected by popular vote for 5 years and it is a challenge for Iohannis, acting as the head of the state (guardian of the constitution, the mediator of the different powers of the state and between state and society), to succeed and deliver on his promises. Radu Dudau interviewed

by Leifheit (2014) saw Iohannis' election as a very positive turn for Romania's energy sector and for the country in general, given his anti-corruption platform. He noted that his election also guarantees Romania's pro-west orientation. Also, he said that it is a guarantee for the Direc ia Na ional Anticorup ie (DNA) which is the prosecution service for high profile cases. DNA has been more active and successful in recent years and under Iohannis it has a stronger chance to remain independent and free to continue its function.

A report published on 3 February 2014 by the EU which was monitoring the corruption fight in the country showed the EU was questioning the government's actions. According to the report "a number of the most recent legislative initiatives of Parliament in December 2013, which, among others, would have narrowed the scope of corruption offences and criminal law provisions on conflicts of interest have seriously called into doubt the stability of the current legislation and the political commitment to see the anti-corruption reforms through"²⁰.

There are several broader signs of progress, however. Pop (2016) wrote on February 1, 2016, that Raluca Pruna the Minister of Justice promised the cessation of the controversial communist-era "get out of jail free book law" introduced by Ponta's government. This law was a help for elite prisoners as they could decrease their sentence period by writing books (one month for every scientific book). This has led to untrustworthy books and premature parole for powerful prisoners. According to the newspaper, in 2014, 89 books were published and in 2015 337, with an example of a prisoner writing 10 books in 17 months while others admitted hiring people to write books for them! It was clear that this law was a gift for powerful prisoners and it aimed to help them avoid their sentences. It was the reaction of a corrupted political system that was watching many elites of the society being taken into courts by DNA and being sentenced to jail. The Minister's intention to abolish this law was a

²⁰Brussels, 3.2.2014 COM(2014) 38 final ANNEX 23 ANNEX ROMANIA to the EU Anti-Corruption Report

sign that there is a strong political change in Romania under President Klaus Iohannis since December 2014 (win against Victor Ponta) and Dacian Ciolos since November 2015 (replacing Victor Ponta). According to the EU, DNA accused during the last year 1250 persons including the then acting Prime Minister Victor Ponta, former Ministers, MPs, Mayors, judges etc.

Because Romania had not effective and independent judicial system the EU was monitoring its actions aiming to assist the country to reform the system. Because of the developments stated above, as Pop (2016) reported on February 16, 2016, that the President of the Commission Juncker was satisfied with Romania and stated that the monitoring report will end by the end of his term. This shows that the country is making progress. Romania and Bulgaria had not effective and independent judicial systems and the EU established this mechanism in order to help the reforms in these.

This analysis suggests that the behavior of the PSD government in office during the transposition of the Third Energy Package can indeed be seen as a negative factor in delaying the transposition of the Directive and failing to respond effectively to infringement proceedings. There is evidence that this government suffered a range of open issues with the rule of law in Romania, it opposed the main force that was fighting the corruption in the country (DNA) and in 2013, it even amended the “book law” (which allowed prisoners who were writing academic research to decrease their sentences). The Economist wrote on October 24, 2015 that the 2013 change, gave the opportunity to convicts, to reduce their sentences by 30 days for every written work that would publish. Elite prisoners such as the former Prime Minister Adrian Nastase, the former Minister and businessman Gheorghe Copos, the politician Gigi Becali, and the richest person in the country Ioan Niculae, have benefited by the 2013 amendment decreasing their sentences. This amendment led to a rapid

rise of the published books as according to the Minister of Justice the number rose from one per year (2007-2010) to 90 in 2014 and 340 in 2015.

On the other hand, it is not correct only to blame Victor Ponta and his government (making them Romania's scapegoat). It has been argued above that he acted like his predecessors and adopted their policies and their reluctance to deregulate the prices. After all, the PSD was not in power from 2004 to 2012, and that period also spawned a range of corruption cases, including that of Elena Udrea.

As far as Romania's geopolitical role and alliances are concerned, it seems that after the NATO and EU accessions, Romania has decided to behave like a close Atlantic ally of the West and it would be very difficult for a party to change this policy (with Ponta's failure to topple Basescu being an example and Iohannis' election securing this role for the coming years). One may project that Romania will cooperate with its allies in order to improve the energy security and create a common energy policy and the internal market.

CHAPTER 5

LITHUANIA

Lithuania like Romania is an Eastern European member state but it was prepared to join the Union three years earlier than Romania in 2004. The EU Commission had to open infringement procedures against Lithuania but the country cooperated and it was not referred to the European Court of Justice. While Romania is characterized as a deviant case Lithuania could be seen as the ideal model. It was the most eager and decisive country to transpose the legislation and it is difficult that the EU Commission could hardly have expected better behavior from a new member state. In this section, I will present Lithuania's effort to transpose the Third Energy Package Directive 2009/73/EC and I will analyze how Lithuania succeeded at its tasks.

In 30.09.2011, the EU Commission send to Lithuania a Formal notice based on Art. 258 Treaty on the Functioning of the European Union (TFEU) about the Directive 2009/73/EC. In 21.02.2013, it sent a Reasoned opinion Art. 258 TFEU and it presented that with this Reasoned Opinion it was requesting the complete transposition of the two Third Energy Package Directives (Electricity and Gas). It stated that Lithuania had two months to respond and that a failure would mean its referral to the Court of Justice by the Commission. Lithuania complied and on 16 April 2014, the European Commission closed the relevant infringement case no 20111082 against Lithuania.

Energy Dependence

In strong contrast with Romania, Lithuania's dependence on Russia for gas supplies was the most important fact. The Lithuanian Tribune on June 7 2013 wrote that the State Security Department²¹ on a report characterized its dependence as the number one "security threat".

According to Eurostat (see Appendix B: Tables and Graphs, Table 10a) in 2011 Lithuania's gas dependency was 100.3% dependent with the EU28 average being 67.1%. In 2012, it was 100,1% and in 2013 100,1% while the EU28 average was about 65%. Lithuania remained completely dependent on Russia and its problem was by far more serious than for most member states. For all the products (see Appendix B: Tables and Graphs, Table 10b) Lithuania's dependence was 81,7% in 2011 and 78,3% in 2013 with the EU28 average being 54% and 51,1% for the same years. This shows that although Lithuania had problems with all the products, the situation in its gas market was more negative.

Intensity

During the last two decades, Lithuania has taken significant steps for the European convergence as it has improved greatly its energy intensity rates and it is closer than ever to the EU average rate. According to the EU statistical pocketbook (see Appendix B: Tables and Graphs, Table 11). In 2015 its intensity was 230 (toe/M€ 10) and 210 in 2012 and 2013 which despite its significant improvement remains much worse than the EU28 with 130 and 129 respectively.

Prices

Table 12a (see Appendix B: Tables and Graphs, Table 12a) illustrates that the gas prices for medium-size households in Lithuania were slightly lower than the EU 27 average. In 2011 it was 12,07 (euro per gigajoule) to 15,61 and in 2013 16,74 to 18,18. The situation was worse for medium-size industries (see Appendix B: Tables and Graphs, Table 12b) as the prices were higher than the EU27 average. In 2011 in Lithuania the price was 9,73 and the EU27 average was 8,57. In 2012, both the prices rose to 12,47 and 9,53 respectively. Lithuania had higher prices throughout this period something that changed in 2015.

Implementation and Court Disputes

As in Romania, corruption had a role in Lithuania's case as well. Lithuania was ranked 32/168 by Transparency International in 2015 (with Romania being 58th). According to the Lithuanian government, Board members of the Lietuvos Dujos (the Lithuanian gas company responsible for import, transmission, distribution and sales of natural gas) failed to serve the best interests of their company letting Gazprom change the agreement and increase the prices and its income. The government decided to act decisively, and as it is presented below, started litigation against Gazprom requesting all the money that Lithuania had overpaid because of Gazprom's claims and Lietuvos Dujos' "mistakes" and dismissed all these employees (Board Members) that were responsible for this. Under Soviet rule, Lietuvos Dujos was a Lithuanian integrated state-owned gas company that since 1961 was responsible for all functions: import, transmission, distribution and sales of natural gas. The German-based European electrical utility holding company E.ON, and the Russian Gazprom became its major's shareholders after its privatization. Since 2013 Lithuania has managed to separate the transmission activity under Amber Grid that became the Lithuania's gas transmission network operator.

Lithuania adopted a decisive policy as far as the TEP implementation. It chose the full ownership unbundling which was the strictest of the three options (ownership unbundling, independent system operator, independent transmission operator). Grigas (2016) presented that in 2010, Lithuania introduced a law for the separation of the transmission activity from the distribution activity, in Lietuvos Dujos (37.1% Gazprom, 38.9% E.ON, 17.7% Lithuanian state, 6% private investors) and the transmission activity would be Lithuanian state's ownership. Both Gazprom and Lietuvos Dujos reacted and Lithuania realized that it would face higher gas prices and litigation. According to Czerwiec (2014) in response to Lithuania's decision to start implementing the unbundling, Gazprom increased the gas prices

(15% increased to those of Latvia and Estonia with Lithuania having the most expensive gas in the EU28 in 2013).

s Agnia Grigas wrote in March 2011 Lithuania initiated a legal procedure at its national courts against Gazprom claiming that it had not respected their 2004 agreement, it had a negative stance towards the country and that it was pressuring the country by political and economic means. Lithuania changed the composition of the board of Lietuvos Dujos (the chairman and other members) claiming that they favored Gazprom. This action illustrates its decisiveness to confront Gazprom and its willingness to fight corruption and to “clear” its state company. E.ON Ruhrgas reacted positively to Lithuania’s decision, but Gazprom was more recalcitrant and did not want to retreat. In June, it tried to block Lithuania’s action and sue it to through the Stockholm Arbitration Institute. When the ruling was published in July 2012, however, Gazprom had only managed to secure the finding that the Lithuanian courts had not the authority to decide if Gazprom was discriminating against Lithuania (but international ones could).

Also in March 2012, Gazprom started arbitration proceedings at the Arbitral tribunal at the Permanent Court of Arbitration in the Hague in order to stop the separation of Lietuvos Dujos. Naturalgaseurope reported on April 5, 2015 that Gazprom finally withdrew the case and its officials justified this decision by stating that it “was no longer relevant” as Gazprom had already sold the assets that were under dispute in the court case”. In contrast Lithuania argued that Gazprom withdrew because its claims were unjustified from the beginning (and the Court would state it if they had not withdrew). This is a more reasonable explanation because if Gazprom expected to win the case, it could have delayed the sale of its assets.

What is more, Naturalgaseurope.com presented that Gazprom’s claim (which seems subsequently collapsed) was that the unbundling with the partition of the distribution and transmission activities opposed to their 2004 agreement (because Lithuania wanted to force

Gazprom abandoning its shares so that Lithuania would control the transportation activities). It analyzed that the core of Gazprom's argument was to prove that the unbundling was an "expropriation" while Lithuania was noting that it was a law promoting "the public needs" and it had the right to do it as a sovereign country. The outcome and the way the case was finished with Gazprom's withdrawal indicate that Gazprom would be unable to justify the "expropriation" claim.

The Estonian law firm specializing in finance and banking Tark Grunte Sutkiene noted that Gazprom's action to sue Lithuania did not change Lithuania's policy; Lietuvos Dujos accepted the ownership unbundling target and on 31 May 2012, a completed plan was presented to the Regulator of Lithuania. Also, rapsinews.com wrote that it sued Gazprom at the Arbitration Institute of the Stockholm Chamber of Commerce requesting 1.5 billion euros claiming that between 2004 and 2012 Lithuania was overpaying Gazprom (the hearing took place in July 2015, with a decision expected in 2016). This response made a clear accusation against Gazprom for illegal charges and against the AB Lietuvos Dujos executives for ignoring their company's interests and benefiting Gazprom (something which is a clear criminal offense). There was no political interference in this case in order to protect the board members and as it is shown below, three Prime Ministers in the row (social democrat, conservative, social democrat) continued the implementation and the court without trying to compromise.

Enerdata.net reported in 2013 the division of Lietuvos Dujos creating the Amber Grid despite the fact that Gazprom would be even more upset. On 11 February 2014, Lithuania agreed with Gazprom on the Third Energy Package. According to the agreement Gazprom should step out from Amber Grid (transmission network operator) by the end of October 2014 (in both companies Lithuania had only 17.7%, E.ON 38.9%, Gazprom 37.1%; and Lithuania wanted to control Amber Grid). Usnews.com wrote that when the Lithuanian

competition authority charged Gazprom with 123 million LTL (about 35.6 million euros), Gazprom announced its intention to sell its shares of the distribution activity with rapsinews.com reporting that it agreed to sell its debts (in both companies) for 121 million euros while it reduced the gas prices by 20% which was a phenomenon unprecedented in the last two decades. Lithuania preferred not to compromise and finally managed to succeed in reaching an agreement that lets it implement the TEP.

Politics

According to the Lithuanian Tribune in April 2013, the Russian Ambassador Vladimir Chkhikvadze stated that Lithuania should be willing to discuss and reach an agreement with Gazprom (Lithuania had adopted a strict policy as far as the TEP implementation). He noted that Gazprom had been able to reach agreements with both Estonia and Latvia because they had requested to delay the implementation till the integration of their markets with the other EU ones and because they did not choose the most stringent option (meaning full ownership unbundling). The result of their stance was that they were offered 20% lower gas prices. By contrast Lithuania adopted a strict stance, did not want to negotiate and decided to use the most extreme of the EU choices in order to secure its energy sector. The intention of Russia (expressed through the Ambassador) to offer lower prices in order the countries not to liberalize the market, simply confirms Schmidt-Felzmann's (2011) argument (discussed above) that there are two opposing models of energy relations (markets and institutions approach – region and empires approach). While the EU Commission tries to promote the first model based on liberal market principles, Russia tries to stop such a development. According to the Lithuania Tribune (April 4, 2013) in 2008 Prime Minister Gediminas Kirkilas did not try to secure an exemption from the implementation of the Gas Directive despite the fact that the cabinet had decided to request the exemption, his conservative rival, and leader of the opposition Andrius Kubilius had demanded an exemption request and this

action it had been decided by the European Affairs Committee of the Lithuanian Parliament. It seems that although the Parliament and the Cabinet (controlled by the Prime Minister) had decided and the Opposition (with its leader) had agreed, the Prime Minister changed his decision. Similarly, the Conservative Andrius Kubilius despite his prior stance, he decided to implement the Directive. When he became Prime Minister (9 Dec 2008 – 13 Dec 2012) he continued the strict Lithuanian policy (presented above). Similarly, his Social Democratic successor and current PM Algirdas Butkevicius (since 13 Dec 2012) continued the litigation against Russia and refused to compromise (as showed the statements made by the Russian Ambassador). Hence successive governments of different political colorations all committed in office to the policy.

Despite this determination, there was speculation in Lithuania that the country could make a better bargain, questioning the decisions to adopt this strict policy and the immediate implementation of the TEP. On 4 April 2013, the Minister of Economy Birutė Vaitienė criticized the Lithuanian policy noting that Latvia and Estonia had a better stance, that the country could have implemented the Directive more slowly in order to “take care” of the consumers and the competitiveness, and that Lithuania was “paying mistakes” made earlier. Although both household customers and powerful industry owners might have complaints because of this policy, the Prime Ministers did not seem to fear a possible dissatisfaction on behalf of the public opinion and they all continued the implementation.

Given the changes of the stance adopted by Gediminas Kirkilas and Andrius Kubilius, and the fact that Algirdas Butkevicius continued despite the opposition within his cabinet (Birutė Vaitienė’s comments) it could be stated that there was pressure by Lithuania’s western allies to implement the Directive but Latvia’s and Estonia’s stances do not support this theory. Naturalgaseurope.com reported in April 2015 that the former (conservative) Prime Minister Andrius Kubilius and the former Minister of Energy Jaroslav Neverovic declared

their policy justified because Gazprom withdrew the case. They stated that Latvia should imitate Lithuania in implementing the Third Energy Package, something that totally contradicts Minister of Economy Birute Vesaitė's position.

Furthermore, Usnews.com highlighted the importance of the Klaipeda Liquid Natural Gas terminal, which empowered Lithuania even before being finished. In 2013, the Prime Minister Butkevičius stated that Lithuania would have cheaper gas prices at the end of 2014 because of the Klaipeda LNG terminal and that Russia should, therefore, decrease the prices in order to have good relations with Lithuania. Based on this prediction he refused again to delay TEP implementation despite the Russians offering a 20% cut on the gas prices. This statement shows that the Prime Minister was not threatened by the increased prices and he wanted to continue the implementation. According to the Lithuanian Tribune in May 2014, the Prime Minister stated that although the negotiations with Gazprom would be difficult, he was not going to stop and he would continue to push for the TEP's implementation according to which Gazprom should either sell its shares or lose the management by November 2014 (E.ON had sold its shares for €147.3 million).

CHAPTER 6

DISCUSSION

Each country faced different stumbling blocks to compliance. What has been presented above indicates that market liberalization and specifically price deregulation, was the most important concern for Romania. On the other side, the unbundling implementation was the main issue in Lithuania, something that Romania had implemented before the Third Energy Package came into force. This shows how different the situation in the two countries had been.

The energy security variable was critical for Lithuania. Lithuania was in a much worse position than Romania as far as its energy security. It was not secured at all; with 100.3% dependence on gas in 2011, it was characterized as an energy island, a term that describes its isolation and its dependence on Russian gas. Its prices were more than the double Romania's and its energy intensity was slightly better than Romania's. It had a strong economic incentive while Romania was less motivated. According to Schmidt-Felzmann (2011), Romania along with Hungary and Poland was the most affected country by the 2009 disruption but this does not seem that changed the general feeling of security (presented above) in the country.

As I have already demonstrated, each country's general compliance record is in line with the final outcome, but the gap between the two countries is bigger in the TEP case. Compared to their standards Lithuania exceeded the expectations and Romania underperformed. As a result, despite its importance, this general compliance variable could not explain adequately why the two countries acted in that way. One could not predict how well Lithuania was going to behave and how difficult was going to be for Romania by only examining general compliance. Lithuania was better than expected and did not stop "fighting" in order to implement the Directive. It chose the most strict policy at the same time

that Latvia and Estonia requested an exemption from the Directive's implementation. Similarly, Romania's general compliance does not depict how problematic this Directive was going to be. Romania had been referred to the Court under the Article 260(3) TFEU²² only once, but the Third Energy Package was the reason for two more referrals (Directives 2009/73/CE and 2009/72/CE). As a result, two out of three of Romania's referrals under this article, are because of the Third Energy Package and specifically for not transposing the two Directives. It is obvious that it was a very sensitive issue for Romania and made the situation for the country very difficult.

In addition, Lithuania's stance is one more example that confirms Sedelmeier's (2008) conclusion that the eastern countries comply with the EU legislation. While this is something that can be easily seen by the general transposition stance, the analysis shows that Lithuania indeed wanted to implement the policy despite the significant obstacles. Although the same could not be stated for Romania we should remember that (as the analysis shows) this issue was particularly problematic for Romania, the country is improving its judicial and administrative system (and the EU Commission recognizes the development) and that the political changes that recently took place in the country are promising. Thus, although Romania had been seen as another eastern country (to a greater extent than the other eastern countries that joined the Union in 2004), that could create problems by failing to comply with the EU legislation, it can be concluded that the future can only be better for Romania in terms of compliance.

In terms of administrative capacity and corruption, both countries had problems. In Lithuania LietuvosDujos (the main gas company) had accepted the divergence of the 2004 agreement with Gazprom something that led to higher gas prices for Lithuania. LietuvosDujos board worked as a Trojan horse, helped Gazprom and this is why they were

²²Referral for absence of complete transposition with the Commission able to propose financial penalties already at this stage without having to wait for a first judgment

taken to the Court and they were dismissed. Pervasive corruption undermined the country. In Romania numerous cases of corruption have been documented above. The phenomenon was more intense in Romania. It seems that private companies were benefited by regulated prices and there are reports of companies giving bribes in order to secure special prices. The difference here is that although corruption was widespread in Romania, there are no reports for politicians or public servants receiving bribes directly from Gazprom (which seems to be the case in Lithuania) and also that in Romania the corruption was not the only factor.

Although corruption and administrative capacity are important variables, politicians and their decisiveness can change the situation. This happened in Lithuania but not in Romania. In Romania, the political parties wanted to increase their popularity by offering cheap gas to their voters while in Lithuania the government pushed till the end the fight against Gazprom and sued it (both at national and international level showing that even if the judiciary is not effective, international courts can protect a country). In that way it implemented the unbundling, ignoring the increased prices and precluding a compromise with Gazprom which promised to offer significantly cheaper prices if Lithuania canceled the implementation.

Here it should be mentioned that in Romania there were “interested groups” that opposed the implementation and these groups were private sector companies and politicians. It is not clear if voters should be included here (as there was not an organized force like a powerful labor union bargaining against the implementation and citizens would always vote against a government if they do not afford to pay for gas or if their stipend is not enough to cover their monthly expenses). In contrast, there is no evidence that the Lithuanian government was pressed by interest groups; certainly the government went after Gazprom’s cosy relationship with LietuvosDujos. Furthermore, there was a difference between the political parties and the way they acted in the two countries. While in Lithuania the

government and the ministers decided to fight corruption and sue the LietuvosDujos Board Members, the Romanian Government (especially under Prime Minister Victor Ponta) did not try to fight corruption. In contrast, his government was presented to be linked in corruption cases while the “write books” law seemed to assist powerful and rich prisoners in reducing their sentences.

In Lithuania, the government (three successive governments) confronted the corruption case and wanted to stop Gazprom’s influence over LietuvosDujos while in Romania an independent agency (DNA) was fighting against corruption and the government was not its ally (with Prime Minister Ponta characterizing DNA itself as a big problem for Romania). Thus, the political systems of Romania and Lithuania adopted different stances something that relates to Stegen’s (2011) study who argued that the state’s reaction is important (the fourth stage of her energy weapon model). Unfortunately, populism and corruption seem to have been the two main problems in Romania’s effort to transpose the Directive. Although such a statement could be pessimistic for the country, the DNA’s determination and the popular reaction both in the 2014 Presidential elections and in the demonstrations that led Ponta to resign seem to be promising for the future of Romania and hence for its energy sector. As a result in both countries, the governments were important with the difference that political interference in Lithuania was positive and became the driving force that pushed for the unbundling implementation, changing the controversial board members while in Romania the reverse was true.

It is clear that Lithuania’s national interest was to terminate its energy isolation and dependence on Russia. Its stance towards the Third Energy Package and the Directive 2009/73/CE is in line with its interest. The threat perceived by Russia justifies the Prime Ministers’ decisions to ignore the high prices (this was not the case in Latvia and Estonia which had similar problems with Lithuania) and convinced people and industries not to revolt

against the government. The fact that both social democrats and conservatives alike supported the implemented policy simplified the situation (a sign that the political system is responsible or at least responsive to its EU obligations). In contrast, Romania which claimed the role of the closest American ally in the region had problems to transpose the Directive. Its low dependency on gas, its low prices (combined with low GDP per capita) can be seen as the reasons that let political parties to delay the implementation of the policy. Although the lack of transposition did not escalate the energy threat for the country it was a shortcoming for Romania that delayed the institutional evolution of its gas market. Romania as an energy producer country should not hesitate to move forward and cooperate with the other countries increasing the trade relations with them.

What then are the broader lessons of this comparative study? I have argued that general patterns of compliance with EU policy and a country's external relations are not in themselves sufficient to predict compliant behavior. Rather, internal political dynamics and the direct impact on national interest are the critical factors.

This case study demonstrates that even if a country has in general negative relations with Russia these relations do not mean that the country will be eager to comply with an EU policy targeting Russia). If the transposition of the European legislation is not directly for the country's benefit and incurs domestic costs that would harm the government or the political parties in general, then it is more difficult this country to be eager to comply. In Romania's case, although it was clear that in the long term the natural gas market would be benefited, the parties postponed the process because of short-term problems (calculations that the voters would be unhappy facing higher prices).

In contrast, when the specific policy proposed by the EU is directly related to national concerns, then, even if this policy implies domestic costs in the short term, the country is more likely to comply and its government can argue and convince the people to accept the

temporary cost in order to benefit in the future (after the “crisis”). This happened in Lithuania’s case where three Prime Minister from both the two main/rival parties convinced their cabinet and the people to implement the policy without compromising.

Maltby’s (2015) analysis of Bulgaria (that showed how a country with significant ties with the Russia changed its stance since its accession, with the gas disruptions of 2006 and 2009 and the rising prices being critical for this development) could be related in some extent here and it one more example showing that cost and benefit calculations about the national economy (which is part of the energy security variable as well), are primary for countries’ decisions. Of course, Estonia and Latvia could be seen as exceptions here because they requested permission from the EU Commission to delay implementation of this policy. An analysis of the differences between them would be valuable. Finally, if such a policy does not imply domestic costs one could predict that the countries will not have problems to transpose it. It is, therefore, less surprising that Romania, a loyal NATO ally, delayed the transposition of the legislation. As a result economic incentives and other incentives (such as foreign policy leverage) should be seen as the main reason for compliance delays and deviating behaviors, and not “friendly relations or pro-third country attitude” in general.

Table 13 (see Appendix B: Tables and Graphs, Table 13) summarizes this argument. This table reflects the fact that there were no major differences between the countries as far as the external relations in Lithuania and Romania. There is a difference between the two countries in internal politics. In Lithuania, there is no policy division across the political spectrum and the cost did not stop the implementation. In Romania, the parties were not united and the cost became problematic.

In Romania’s case, there was a conflicting picture. The first was the external relations, with the country trying to play a significant role in the alliance against Russia and the second with the internal politics and parties’ calculations with concerns about the voters and the

elections. In Lithuania's case, internal politics did not form polarized blocks on the issue and there was not a division between administrations like in Romania. This is something that the EU Commission should keep in mind and try to predict and anticipate. A responsible stance by all the political parties and what the public opinion thinks about the policy that is going to be implemented, are critical issues. Convincing the main parties to agree and cooperate on important issues such as energy security and explain to the public why and how this will help should be the target.

How do the cases of Romania and Lithuania fit into current findings in the study of EU policy making? What further country studies could be useful? Schmidt-Felzmann (2011) argued that countries with small market and high import dependence on Russia are weak and as a result they should be the most eager to diversify their sources. This statement is clear and it is confirmed by Lithuania's case but not by Estonia and Latvia who were not eager to implement the policy (As noted above, Schmidt-Felzmann (2011) was talking about diversification of sources. Although the Directive under study here is not about diversification of sources, it is an energy security related issue directly linked to diversification). Future research that includes these two countries could be helpful in accounting for the variable response of three countries in such a similar position, and with roughly the same market size.

Similarly, it could be argued that Lithuania's stance adds one more example in support of Stegen's (2011) conclusions about different responses to energy-rich countries. It confirms the conclusion that even a weak state can resist as Lithuania stood up and successfully promoted an independent energy policy. Also, it confirms that the state's reaction is indeed critical and this makes more interesting the future analysis of Estonia and Latvia which could be added to Stegen's (2011) examples of countries that did not want to confront the energy-rich country.

In addition, a comparison of a moderate Eastern European country and/or a Western one that demonstrated an intermediate degree of compliance is something that will be considered, after the evaluation of Romania and Lithuania. An Eastern European country in an intermediate position would help to understand better the contradictions between Romania and Lithuania. The Czech Republic would be a good case. As a post-Soviet country, the Czech Republic understands the threat posed by the east. On the other hand, it is surrounded by other EU member states. It is not close to Russia and it is not on the “front line”. Being surrounded by Germany, Austria and Poland simplifies things both in security and energy terms. Slovenia could be interesting as well, but it has a small population (about 2 million) which means that its national energy market is small and its demand is most easily covered. Also, its small territory means that it is easier to build energy infrastructure and in general to provide gas to the country. In Western Europe, Italy could be an interesting case because of its geographical position, its relations with Russia and the size of its market.

CHAPTER 7

CONCLUSIONS

The Third Energy Package and its transportation to the national Romanian and Lithuanian legislation have been discussed above. When the EU Commission notifies for transposition of a Directive it is not the end of the process, the notifications and the closing of the infringements finished Romania's and Lithuania's obligations to transpose the two Directives into their national legislations. This study tried to identify the points that shaped the behavior of two Eastern European member states with cold relations with Russia towards the Directive 2009/73/CE. The analysis shows that Romania and Lithuania despite their common attitude towards Russia had several differences in domestic politics that help to explain their different responses.

Although Romania had many significant incentives to liberalize the market, to enhance its competition, and to profit from the function of the free market, the increased energy security, and the investments in infrastructure, it chose to stay inert. While its stance may seem to be irrational, contradicting to its own dynamic participation in the mid-2000's for cooperation among the east Europeans, the main barrier was political expressed a reluctance to deregulate prices. Governments that do not support free-market's values and competition, populism among politicians in order to secure people's votes, widespread corruption and relations between industrial energy consumers and state's officials combined with politician tolerance (and sometimes signs of participation) were significant facts. In Lithuania, the problem was the unbundling implementation in the face of Russian/Gazprom resistance. As the unbundling would benefit significantly the country, its governments moved decisively to confront Gazprom, dismissing those that accepted its controversial action and eliminating at the Courts (domestic and international) its arguments. It was showed that while the declared foreign policy and the country's willingness for the common benefit are

important, domestic politics with parties' calculations do matter as well and could lead to delays especially when the country does not feel that its stance directly affects and harms the other member-states.

REFERENCES

- Abdelal, R. (2004). Interpreting interdependence: national security and the energy trade of Russia, Ukraine, and Belarus. *In R. Legvold & C. Wallander (Eds.), Swords and Sustenance: The Economics of Security in Belarus and Ukraine (101-127)*. Cambridge: MIT Press.
- Ademmer, E. (2015). Interdependence and EU-demanded policy change in a shared neighborhood. *Journal of European Public Policy*, 22(5), 671-689.
- Andrei, A. (2015). The Liberalization of the Electricity and Gas Markets - Top Priority for the Romania's Energy Security. *International Journal of Economic Practices and Theories (IJEPT)*, 5(5), 406-412.
- ANRE vicepresident Claudiu Dumbraveanu, detained in corruption case. (2014, June 05). *Businessreview.eu*. Retrieved from <http://business-review.eu/featured/anre-vicepresident-claudiu-dumbraveanu-detained-in-corruption-case-64770>
- ArcelorMittal: After deregulation, gas price in Romania to be higher than in EU. (2014, February 27). *Nineoclock*. Retrieved from <http://www.nineoclock.ro/arcelormittal-after-deregulation-gas-price-in-romania-to-be-higher-than-in-eu/>
- Beckman, K. (2015, May 27). Interview Radu Dudau - Energy Policy Group: "We are in urgent need of a new energy strategy". *Energypost.eu*. Retrieved from <http://www.energypost.eu/interview-radu-dudau-energy-policy-group-urgent-need-new-energy-strategy/>
- Beissinger, R. M. (2009). Nationalism and the Collapse of Communism. *Contemporary European History*, 18 (3), 331-347.
- Börzel, T. A. (2003). *Environmental leaders and laggards in Europe: Why there is (not) a southern problem*. Aldershot, Hampshire, England: Ashgate.

- Bruce, C. (2007). Power resources: the political agenda in Russo–Moldovan gas relations. *Problems of Post-Communism*, 54 (3), 29–47.
- Brutschin, E. (2015). Shaping the EU’s Energy Policy Agenda: The Role of Eastern European Countries. In J. Tosun, S. Biesenbender & K. Schulze (Eds.), *Energy Policy Making in the EU Building the Agenda*, Retrieved from <http://www.springer.com/us/book/9781447166443>
- Buchan, D. (2015). Energy Policy: Sharp Challenges and Rising Ambitions. In H. Wallace, A. M. Pollack & R. A. Young (Eds.), *Policy-Making in the European Union (344-366)*. Oxford: Oxford University Press.
- Buchan, D (2010). Energy Policy: Sharp Challenges and Rising Ambitions. In H. Wallace, A. M. Pollack & R. A. Young (Eds.), *Policy-Making in the European Union (357-380)*. Oxford: Oxford University Press.
- Ciambra, A., & Solorio, I. (2015). The Liberalization of the Internal Energy Market: Is the EU Dancing at a British Tempo?. In J. Tosun, S. Biesenbender & K. Schulze (Eds.), *Energy Policy Making in the EU Building the Agenda*, Retrieved from <http://www.springer.com/us/book/9781447166443>
- Claudiu Dumbraveanu si Florin Gugu, acuzati de DNA de luare de mita in dosarul de coruptie ANRE-ENEL, au fost achitati in prima instant. (2015, July 3). *Anticoruptie.hotnews.ro*. Retrieved from <http://anticoruptie.hotnews.ro/stiri-anticoruptie-20274388-claudiu-dumbraveanu-florin-gugu-acuzati-dna-luare-mita-dosarul-coruptie-anre-enel-fost-achitati-prima-instanta-tribunalul-bucuresti.htm>
- Crisis on the US-EU-Russia Axis: The South Stream pipeline brings down political barriers. *Petroleumreview.ro*. Retrieved from <http://www.petroleumreview.ro/en/magazine/2015/dec-jan-2015/28-july-august->

2014/215-crisis-on-the-us-eu-russia-axis-the-south-stream-pipeline-brings-down-political-barriers

Cunningham, N. (2015, October 12). Romania Wants New Gas Supplies To Break Russian Gas Hold. *OilPrice.com*. Retrieved from <http://oilprice.com/Energy/Natural-Gas/Romania-Wants-New-Gas-Supplies-To-Break-Russian-Gas-Hold.html>

Czerwiec, J. (2014, November 4). Emerging From Russia's Energy Shadow. *usnews.com*. Retrieved from <http://www.usnews.com/opinion/blogs/world-report/2014/11/04/lithuania-embraces-energy-independence-from-russia>

Dempsey, J. (2005). Russia seeks pipeline control. *The International Herald Tribune*.

Dudau, R. (2015, February 22). Romanian Energy Topics for 2015. *CEEP*. Retrieved from <http://www.ceep.be/romanian-energy-topics/>

Dudau, R., & Simionel, T. (2011). The politics of the Third Energy Package. *Romania Energy Center*, Policy Paper

Eikeland (2011) The Third Internal Energy Market Package: New Power Relations among Member States, Eu Institutions and Non-state Actors?. *Journal of Common Market Studies*, 49(2), 243-263.

Eikeland, P.O. (2008). EU Internal Energy Market Policy: New Dynamics in the Brussels Policy Game?' *FNI Report 14/3008*, Lysaker: Fridtjof Nansen Institute.

European Union. (2015, January 28). Commission reports on progress in Romania under the Co-operation and Verification Mechanism. *European Commission*. Retrieved from http://europa.eu/rapid/press-release_IP-15-3822_en.htm

European Union. (2014, October 13). Progress towards completing the Internal Energy Market – SWD (2014) 311 final. *European Commission*. Retrieved from https://ec.europa.eu/energy/sites/ener/files/documents/2014_iem_communication_annex2.pdf

European Union. (2014, February 3). ANNEX 23 - ROMANIA to the EU Anti-Corruption Report - COM(2014) 38 final. *European Commission*. Retrieved from http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_romania_chapter_en.pdf

European Union. (2013, March 21). Press release - Internal energy market: Commission refers Romania to Court for failing to fully transpose EU rules. *European Commission*. Retrieved from http://europa.eu/rapid/press-release_IP-13-260_en.htm

European Union. (2013, February 21), February infringements package: main decisions. *European Commission*. Retrieved from http://europa.eu/rapid/press-release_MEMO-13-122_en.htm

European Union. (2011, April 6). Energy: Commission urges Italy, Poland and Romania to change their end-user price regulation schemes to ensure freedom of choice for consumers. *European Commission*. Retrieved from http://europa.eu/rapid/press-release_IP-11-414_en.htm?locale=en

European Union. (2011, March 10). Report from the Commission to the European Parliament and the Council – COM(2011) final. *European Commission*. Retrieved from <https://www.energy-community.org/pls/portal/docs/888181.PDF>

European Union. (2007, July 10). European Parliament resolution of 10 July 2007 on prospects for the internal gas and electricity market. European Parliament. Retrieved from <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0326+0+DOC+XML+V0//EN>

European Union. (2006, September 26). Monitoring report on the state of preparedness for EU membership of Bulgaria and Romania – COM (2006) 549 final. *European Commission*. Retrieved from

http://ec.europa.eu/enlargement/pdf/key_documents/2006/sept/report_bg_ro_2006_en.pdf

European Union. Market legislation. *European Commission*. Retrieved from

<https://ec.europa.eu/energy/en/topics/markets-and-consumers/market-legislation>

European Union. Energy Strategy. *European Commission*. Retrieved from

<https://ec.europa.eu/energy/en/topics/energy-strategy>

Garcia-Verdugo, J., & Munoz, B. (2012). Energy dependence, vulnerability and the geopolitical context, In J. M. Marin-Quemada, J. Garcia-Verdugo & G. Escribano (Eds.), *Energy Security for the EU in the 21st Century* (37-53). New York (NY): Routledge.

Garcia-Verdugo, J., San-Martin, E., & Munoz, B. (2012). Quantifying geopolitical energy risks. In J. M. Marin-Quemada, J. Garcia-Verdugo & G. Escribano (Eds.), *Energy Security for the EU in the 21st Century* (144-169), New York (NY). Routledge.

Gazprom Drops One Arbitration Case Against Lithuania. (2015, April 5). *aturalgaseurope*. Retrieved from <http://www.naturalgaseurope.com/gazprom-lithuania-arbitration-case-23046>

Gazprom drops suit against Lithuania over EU's 'third energy package' – report. (2015, April 3). *Rapsinews.com*. Retrieved from http://rapsinews.com/judicial_news/20150403/273478452.html

Geden, O., Marcelis, C., & Maurer, A. (2006). Perspectives for the European Union's External Energy Policy: Discourses, Ideas and Interests in Germany, the UK, Poland and France. *SWP Working Paper*.

Geiner, P. (2012, July 18). Europe Rebukes Romania on Democratic Efforts. *The New York Times*. Retrieved from http://www.nytimes.com/2012/07/19/world/europe/eu-rebuked-romania-on-democratic-efforts.html?_r=0

- Götz, E. (2014). Its geopolitics stupid: explaining Russia's Ukraine policy. *Global Affairs*, 1(1), 3-10.
- Greenwood, C. (2006). Ukraine Gas Crisis Could hit Britain. *Birmingham Post*.
- Grigas, A. (2016). Politics of memory: the case of Soviet occupation damages. In A. Grigas (Ed.), *The Politics of Energy and Memory Between the Baltic States and Russia (155-173)*. New York, NY: Routledge.
- Ilie, L. (2012, April 30). FEATURE-Romania energy deregulation key to new investment. *Reuters*. Retrieved from <http://www.reuters.com/article/romania-energy-idUSL5E8FU36E20120430>
- Implementation of EU Third Energy Package Directives in Lithuania. *Tarkgruntesutkiene.com*. Retrieved from <http://www.tarkgruntesutkiene.com/news/deals-and-awards/implementation-of-eu-third-energy-package-directives-in-lithuania>
- Jaffe, A., & Soligo, R., 2008. Militarization of Energy: Geopolitical Threats to the Global Energy System. *Working Paper Series: The Global Energy Market: Comprehensive Strategies to Meet Geopolitical and Financial Risks*, Rice University: The James A. Baker III Institute for Foreign Policy.
- Jeziorski, M. (2006). Gas Pains, The Warsaw Voice Online.
- Kanapinskas, V. & Urmonas, A. (2011). Changes of Legal Regulation on Natural Gas Market in the Context of the Third European Union Energy Package. *Jurisprudence*, 18(1), 233-249
- Kantchev, G. (2016, February 25). With U.S. Gas, Europe Seeks Escape From Russia's Energy Grip. *The Wall Street Journal*. Retrieved from <http://www.wsj.com/articles/europes-escape-from-russian-energy-grip-u-s-gas-1456456892>

- Kelley, J.G. (2004). *Ethnic Politics in Europe. The Power of Norms and Incentives*, Princeton, NJ: Princeton University Press.
- King, C. (2001). The benefits of ethnic war Understanding Eurasia's Unrecognised states. *World Politics*, 53(4), 524-552.
- Leifheit, D. (2014, November 27). Romania's New President: Good News for O&G Sector. *Naturalgaseurope*. Retrieved from <http://www.naturalgaseurope.com/romania-new-president-oil-and-gas-sector>
- Levitz, P., & Pop-Eleches, G. (2009). Monitoring, Money and Migrants: Countering Post-Accession Backsliding in Bulgaria and Romania. *Europe-Asia Studies*, 62(3), 461–479.
- Lithuania's PM anticipates difficult negotiations with Gazprom. (2014, May 22). *The Lithuania Tribune*. Retrieved from <http://www.lithuaniatribune.com/68272/lithuanias-pm-anticipates-difficult-negotiations-with-gazprom-201468272/>
- Lithuania reaches agreement with Gazprom on EU Third Energy Package. (2014, February 11). *Enerdata.net*. Retrieved from http://www.enerdata.net/enerdatauk/press-and-publication/energy-news-001/lithuania-reaches-agreement-gazprom-eu-third-energy-package_25763.html
- Lithuania's PM to meet with Gazprom's chair today. (2013, April 5). *The Lithuania Tribune*. Retrieved from <http://www.lithuaniatribune.com/33273/lithuanias-pm-to-meet-with-gazproms-chair-today-201333273/>
- Locatelli, C. (2008). EU Gas Liberalization as a Driver of Gazprom Strategies?, *Russie.Nei.Visions n°26*, Russia/NIS Center.
- Luetgert, B., & Dannwolf, T. (2009). Mixing Methods A Nested Analysis of EU Member State Transposition Patterns. *European Union Politics*. 10(3). 307-334.

- Maltby, T. (2015). Between amity, enmity and Europeanisation: EU Energy security policy and the example of Bulgaria's Russian energy dependence. *Europe Asia Studies*, 67(5), 809-830.
- Maltby, T. (2013). European Union energy policy integration: A case of European Commission policy entrepreneurship and increasing supranationalism. *Energy Policy*, 55, 435-444.
- Manners, I. (2002). Normative Power Europe: A Contradiction in Terms? *Journal of Common Market Studies*, 40(2), 235-258.
- Marin-Quemada, J. M., Garcia-Verdugo, J., & Escribano, G. (2012). *Energy Security for the EU in the 21st Century*. New York NY: Routledge.
- Mihalache, A. E. (2014, December 22). Hurdles in the Path of Romanian Gas Market Liberalization. *Naturalgaseurope*. Retrieved from <http://www.naturalgaseurope.com/romanian-gas-market-liberalization>
- Minister of Economy says Lithuania could delay EU's third energy package. (2013, April 4). *The Lithuania Tribune*. Retrieved from <http://www.lithuaniatribune.com/33154/minister-of-economy-says-lithuania-could-delay-eus-third-energy-package-201333154/>
- Myers, S.L. (2006, November 3). Russian Gas Company Plans Steep Price Increase for Georgia. *The New York Times*. Retrieved from: <http://www.nytimes.com/2006/11/03/world/europe/03georgia.html?fta=y>
- National Energy Strategy 2015-2035: Romania needs investments of about 100 bn euro. (2014, December 8). *Govnet.ro*. Retrieved from <http://govnet.ro/Energy/Economics/National-Energy-Strategy-2015-2035-Romania-needs-investments-of-about-100-bn-euro--->

Nowak, Z., wiek-Karpowicz, J., & Godzimirski, J. (2015). The Power to Influence Europe? Russia's Grand Gas Strategy. *Polish Institute of International Affairs (PISM) Strategic File*, 6(69), 2-7.

Oh, brother. (2014, June 28). *The Economist*. Retrieved from <http://www.economist.com/news/europe/21605953-traian-basescu-ending-his-presidency-amid-corruption-scandal-oh-rother?zid=309&ah=80dcf288b8561b012f603b9fd9577f0e>

Oil and gas regulation: Country Q&A tool. (2014, June 1). *Us.Practicallaw*. Retrieved from http://us.practicallaw.com/8-523-5966?qaq=W_q1&qaq=W_q2&qaq=W_q3&qaq=W_q4&qaq=W_q5&qaq=W_q6&qaq=W_q7&qaq=W_q8&qaq=W_q9&qaq=W_q10&qaq=W_q11&qaq=W_q12&qaq=W_q13&qaq=W_q14&qaq=W_q15&qaq=W_q16&qaq=W_q17&qaq=W_q18&qaq=W_q19&qaq=W_q20&qaq=W_q21&qaq=W_q22&qaq=W_q23&qaq=W_q24&qaq=W_q25&qaid=2-566-0966

Papadimitriou, D., & Gateva, E. (2009). Between Enlargement-led Europeanisation and Balkan Exceptionalism: an appraisal of Bulgaria's and Romania's entry into the European Union. *Hellenic Observatory Papers on Greece and Southeast Europe*, 25, London: London School of Economics and Political Science http://eprints.lse.ac.uk/24197/1/GreeSE_No25.pdf

Parker, G., & Ostrovsky, A. (2005, July 27). Baltic states face Gazprom 'threat' to euro entry hopes. *Financial Times*. Retrieved from http://www.ft.com/cms/s/0/3a714fc2-fe3b-11d9-a289-00000e2511c8.html?ft_site=falcon&desktop=true#axzz4EVRILINZQ

Pawel Olechnowicz: Romania Stands Every Chance of Becoming a Key Pillar of the Europe's Energy Security. (2015, February 1). *CEEP*. Retrieved from

<http://www.ceep.be/project/pawel-olechnowicz-romania-stands-every-chance-of-becoming-a-key-pillar-of-the-europes-energy-security/>

Pointvogl, A. (2009). Perceptions, realities, concession – What is deriving the integration of European energy policies?. *Energy Policy*, 37, 5704-5716.

Pop, V. (2016, February 1). Romanian Government To Abolish Get-Out-Of-Jail-Free Book Law. *The Wall Street Journal*. Retrieved from <http://blogs.wsj.com/brussels/2016/02/01/romanian-government-to-abolish-get-out-of-jail-free-book-law/>

Pop, V. (2016, February 16). EU To End Special Monitoring of Romania, Says Juncker. *The Wall Street Journal*. Retrieved from <http://blogs.wsj.com/brussels/2016/02/16/eu-to-end-special-monitoring-of-romania-says-juncker/>

Pridham, G. (2007b) Romania and EU Membership in Comparative Perspective: A Post-Accession Compliance Problem? – The Case of Political Conditionality, *Perspectives on European Politics and Society*, 8(2), 168-188.

Purgaru, D. (2015, October 20). Elena Udrea involved in new corruption case. *Nineoclock.ro*. Retrieved from <http://www.nineoclock.ro/elena-udrea-involved-in-new-corruption-case/>

Purgaru, D. (2015, September 17). PM Ponta sent to Court on corruption charges, President Iohannis, Opposition urge him to resign. Ponta speaks about “obsession of a totally unprofessional prosecutor”. *Nineoclock.ro*. Retrieved from <http://www.nineoclock.ro/prime-minister-sent-to-court-on-corruption-charges-president-iohannis-opposition-urge-him-to-resign-ponta-speaks-about-obsession-of-a-totally-unprofessional-prosecutor/>

Romania: An Introduction to Romania. *Chambersandpartners*. Retrieved from <http://www.chambersandpartners.com/179/24/editorial/7/1>

- Romania parliament postpones gas price deregulation to 2021. (2014, September 17).
Reuters. Retrieved from
<http://af.reuters.com/article/energyOilNews/idAFL6N0RI2I120140917>
- Romania's presidential election A commonsense victory. (2014, November 22). *The Economist*. Retrieved from <http://www.economist.com/news/europe/21633835-surprise-winner-may-mark-welcome-shift-pragmatic-policies-commonsense-victory?zid=309&ah=80dcf288b8561b012f603b9fd9577f0e>
- Roth, E. R. (2015). Romania's foreign policy towards the wider Black Sea area in the aftermath of the 2007 EU accession: a by-product of exogenous influences, colliding interests and energy rivalries. *Studia Politica: Romanian Political Science Review*, 15(1), 21-37.
- Russian Ambassador deems Gazprom accusations detrimental for mutual cooperation. (2013, April 3). *The Lithuania Tribune*. Retrieved from
<http://www.lithuaniatribune.com/33127/russian-ambassador-deems-gazprom-accusations-detrimental-for-mutual-cooperation-201333127/>
- Savu, I, & Timu, A. (2012, June 14). Romania Approves Energy Price Deregulation Law. *Bloomberg*. Retrieved from <http://www.bloomberg.com/news/articles/2012-06-14/romania-approves-energy-price-deregulation-law-hotnews-reports>
- Schimmelfennig, F., & Sedelmeier, U. (Eds.). (2005a). *The Europeanization of Central and Eastern Europe*, Ithaca, NY: Cornell University Press.
- Schmemmann, S. (1993). Yeltsin suggests a role for Russia to keep peace in ex-Soviet lands. *The New York Times*, p. A1.
- Schmidt-Felzmann, A. (2011). EU Member States Energy Relations with Russia: Conflicting Approaches to Securing Natural Gas Supplies. *Geopolitics - Special Issue: The Geopolitics of Energy Supply in the 'Wider Europe*, 16(3), 574-599.

- Schwartz, R. (2015, April 11). Opinion: Romania's Ponta is gone, finally!. *Deutsche Welle*. Retrieved from <http://www.dw.com/en/opinion-romanias-ponta-is-gone-finally/a-18826415>
- Sedelmeier, U. (2014). Anchoring Democracy from Above? The European Union and Democratic Backsliding in Hungary and Romania after Accession. *Journal of Common Market Studies*, 52(1), 105-121.
- Sedelmeier, U. (2008). After conditionality: post accession compliance with EU law in East Central Europe. *Journal of European Public Policy*, 15(6), 806-825.
- Sedelmeier, U. (2005). *Constructing the Path to Eastern Enlargement: The Uneven Policy Impact of EU Identity*, Manchester: Manchester University Press.
- Sikorski, R., Olex-Szczytowski, M., & Rostowski, J. (2007, May 28). Russian gas pipeline would be geopolitical disaster for EU. *Financial Times*. Retrieved from http://www.ft.com/cms/s/0/db259cf2-0cb7-11dc-a4dc-000b5df10621.html?ft_site=falcon&desktop=true#axzz4EVR LINZQ
- Soare, S. (2010). The Romanian-Russian Bilateral relationship in the Aftermath of Romania's Euroatlantic Integration. *Monitor Strategic*, 1(2), 93-121.
- Stanimirova, M. (2012, December 13). Romania adopts calendar towards deregulating natural gas prices. *Wire.seenews*. Retrieved from <https://wire.seenews.com/news/romania-adopts-calendar-towards-deregulating-natural-gas-prices-322534#>
- State Security Department sees dependence on Gazprom as main security threat. (2013, June 7). *The Lithuania Tribune*. Retrieved from <http://www.lithuaniatribune.com/40850/state-security-department-sees-dependence-on-gazprom-as-main-security-threat-201340850/>
- Status Review on the Transposition of Unbundling Requirements for DSOSs and Closed Distribution System Operators. (2013, April 16). *Council of European Energy*

- Regulators*. Retrieved from http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_PAPERS/Cross-Sectoral/Tab/C12-UR-47-03_DSO-Unbundling_Status%20Review_Public.pdf
- Stegen, K. S. (2011). Deconstructing the “energy weapon”: Russia’s threat to Europe as a case study. *Energy Policy*, 39(10), 6505-6513.
- Stent, A. (2008). An Energy Superpower? Russia and Europe, In K. M. Campbell & J. Price (Eds.), *The Global Politics of Energy* (76-96). Washington, DC: The Aspen Institute.
- Stern, J. (2006). The Russian-Ukrainian gas crisis of January 2006. *Oxford Institute for Energy Studies*.
- Time off for bad prose. (2015, October 24). *The Economist*. Retrieved from <http://www.economist.com/news/europe/21676811-corrupt-politicians-are-churning-out-books-reduce-their-sentences-time-bad-prose>
- Trauner, F. (2009). Post-accession compliance with EU law in Bulgaria and Romania: a comparative perspective. *European Integration online Papers*, 13(2), 1-24.
- Umbach, F. (2009). Global energy security and the implications for the EU, *Energy Policy*, 38, 1229-1240.
- Verseck, K. (2012, July 17). Political Crisis: Corrupt Cliques Vie for Power in Romania. *Spiegel*. Retrieved from <http://www.spiegel.de/international/europe/basescu-and-ponta-battle-for-political-power-in-romania-a-844884.html>
- Walstad, A. (2014, September 4). Brussels scrutinizes export bans in Bulgaria and Romania. *Energy Policy Weekly*. Retrieved from http://interfax.com/ftproot/files/content/pdf/Energy_Policy_Weekly.pdf
- Whist, B.S. (2008). Nord Stream: Not Just a Pipeline. *Fridtjof Nansen Institute*, FNI Report 15/2008.

Woehrel, S. (2009). Russian energy policy towards neighbouring countries. *CRS Report for Congress*.

Yergin, D. (2006). *Ensuring energy security*. Foreign Affairs, 85(2), 69-82.

Zilberman, A., & Webber, S. (2003). Public Attitudes toward NATO Membership in Aspirant Countries. In Vlachova, M. (Ed.), *The Public Image of Defence and the Military in Central and Eastern Europe* (47-68). Centre for the Democratic Control of Armed Forces (Geneva) and Centre for Civil-Military Relations (Belgrade).

APPENDIX A: EXAMPLES FROM BELARUS, UKRAINE, GEORGIA, ARMENIA

Esther Ademmer (2015) presented in detail how Russia intervened in Armenia's and Georgia's energy sectors, trying to stop their energy sources diversification policies. It seems that Russia wanted the countries to be energy dependent and that it intervened when they tried to decrease the amount of their dependence. Russia did not want them to diversify the energy sources, nor to invest in renewable energy. In contrast, it demanded itself to be the master of their infrastructure and to control the gas routes and outflows.

Armenia

In Armenia, the target was the Energy Law of 2011 aiming to enhance Armenia's energy independence and the Energy Sector Development Strategy which came the next year, which wanted to avoid unsafe energy imports and to boost its renewable and its energy efficiency. Also, Armenia tried to negotiate with Turkmenistan gas deliveries from Iran. In 2004, there was an agreement with Iran as it was trying to reduce its dependence and diversify its energy sources. Then, in 2006 Russia doubled the gas prices from 55\$ to 110\$ (per thousand cubic m.). He supported that Russia did not like the fact that it was out of the agreement and that future routes in the region would not be under its control, and that Russia wanted to possess the Armenian parts of the pipeline and the thermal power plant. The outcome was that Gazprom did manage to own the part of the pipeline.

Georgia

In 2001 and 2002 Georgia which was dependent on Russia for gas supplies, agreed with Azerbaijan for the "South Caucasus gas pipeline. Then Gazprom intervened and proposed to invest \$250 million in Georgia's outdated infrastructure if they controlled Georgia's gas transit routes. Ademmer (2015) also presented that after the Rose Revolution, Mikhail Saakashvili won the 2004 elections. He became President and did not approve

former President's Shevardnadze's Gazprom deal. In January 2006, Gazprom increased the gas price from \$63 to \$110 (per thousand cubic meters) and in 2007, the price doubled again from 110 to 235 \$.

Woehrel (2009) presented that Russia has adopted aggressive policies in the past. He showed that Russia has used gas prices and disruptions in order to take control of the infrastructure and to promote its interests making it clear that it supports Russian-friendly politicians and countries by offering more fair deals to them. He analyzed Russia systematic policy towards Ukraine and he showed that with the same policies Gazprom took the control of Bultranas and it acquired 63.4% of MoldovaGaz (controlling Belarus' and Moldova's infrastructure)

Ukraine

In addition, Steven Woehrel (2009) illustrated that after Yushchenko's domination in Ukraine against the Russian-backed Prime Minister, Yanukovych, Russia wanted to increase the gas price. Following Ukraine's reluctance, it stopped the gas flows to the country on December 31, 2006. At the end, Ukraine had to buy gas from a middleman "RosUkrEnergo" (50% owned by Gazprom). According to the agreement RosUkrEnergo and Ukraine's gas firm (Naftogaz) created a new firm (UkrGazEnergo) which was free to enter to the one-half of the domestic market. He accepted that Ukraine thought that RosUkrEnergo owners wanted through their control of energy supplies to acquire energy intensive industries (fertilizer plants, titanium plant). When Yanukovych became again Prime Minister in March 2006 Russia had a more moderate stance towards Ukraine. Furthermore, he presented that when Putin in September 2007 stated that he did not want to sell cheap gas to "Orange forces", it became obvious that the different way Russia dealt with Yushchenko's Ukraine and Yanukovych's Ukraine, was not a coincidence but a strategic and planned move/policy.

On September 30, 2007, the opposition won the elections and two days later Gazprom declared that Ukraine within a month should pay its debts. Otherwise, Gazprom was going to reduce the gas flows. The alternative was to give to Russia parts of its gas pipelines. At the end Gazprom and Yanukovich (before leaving office) agreed for an increased price, two times bigger the one given to Belarus. When Tymoshenko became Prime Minister she tried to expel UkrGazEnergo, Russia reduced the gas flows and after the conflict, Gazprom secured the right to sell gas to big enterprises which considered the best part of the Ukrainian gas market. After the 2009 gas disruption Ukraine managed to expel RosUkrEnergo but for the first quarter of 2009, Ukraine had to pay more than the double of the 2008 gas price but Ukraine avoided this price as it had reserved.

Woehrel (2009) noted that Russia systematically tried to take the control of the Ukrainian gas pipelines, storage facilities and the local distribution network (p.415) and mentioned Putin's statement that Prime Minister Yanukovich accepted a Russian-Ukrainian control of Ukraine's gas resources, something that was outvoted by the Ukrainian Parliament (430-0). Another sign that Russia wanted to control Ukraine's network was Putin's negative comments when the EU offered loans to Ukraine in order to improve its pipelines and its infrastructure, but unfortunately, the loans stopped because Ukraine was reluctant to move forward with the necessary reforms.

Moldavia

Woehrel (2009) noted that Moldova became Russia's target as well. Russia has managed to acquire 63.4% of MoldovaGaz and to control Moldova's gas infrastructure. MoldovaGaz was the owner of Moldova's gas infrastructure and pipelines but Gazprom took the majority of the company because of Moldova's unpaid debt. Later, on January 1, 2006, the country did not agree to a doubled gas price proposed by Gazprom which then stopped

the gas flows. 17 days later Moldova agreed to a moderately increased price but it also gave to Gazprom Transnistria's another 13% of MoldovaGaz.

Belarus

Belarus had similar issues but Russia has been less intense there. As Woehrel (2009) presented, Gazprom demanded to buy the Beltransgaz. In that way, Gazprom would control Belarus' pipelines and infrastructure. The other choice for Belarus was to pay 4 times higher price to Gazprom for natural gas, and it was ready to stop the gas flows to the country. The final agreement was 2006 price's doubling and a plan for annual increases until 2011 when the price should be at the market level. Of course, Gazprom managed to take the control of Bultrangaz as well. Despite that, Gazprom's price for Belarus was about 148\$ per bcm in the first quarter of 2009 which was much less than the price rate charged Ukraine.

APPENDIX B: TABLES AND GRAPHS

Table 1: *Evolution of agenda-shaping processes in EU energy market liberalization*

	The 1970s – early 80s	The late 80s – mid-90s	The mid-1990s – 2000s
EU energy policy development	Embryonic community participation	Designing of the internal energy market	Promoting sustainable energy market strategies
British role in the agenda-setting process	Agenda exclusion	Agenda-Setting	Agenda structuring
Attempt to “upload” British energy model	Uploading limitations to preserve domestic interests	Uploading as a “first-mover” on liberalization strategies	Uploading through council presidency prerogatives
British position and interaction	Rejection of any community involvement in the north sea reserves	First-mover of energy liberalization. Strong supporter of commission’s liberalizing proposals	1998 Council presidency to focus “greener” energy policy. Market driven environmental policies. 2005 Council presidency

Table 1 (cont.)

			to promote low-carbon policy discourse.
Commission's position and action	Watering cooperation proposals down. Focus on reduction of energy consumption and increase of internal energy trade	Backing the British agenda on liberalization to increase its own involvement in the EU arena. Reliance on British politicians' upload narrative	Using Cardiff process and Hampton court summit as consensus building opportunities for EU-wide energy policy.

Source: Ciambra and Solorio (2015) p.160

Table 2: EU Energy in figures

(Mtoe) Million Tonnes Of Oil Equivalent

	1995	2000	2005	2010	2012	2015
Dependency	43.4%	48.9%	57.1%	62.2%	65.8%	65.3%
Gas production	191.4	209.4	190.8	159.9	133.4	132

Table 2 (cont.)

Final gas consumption	247.2	267.6	281.2	273.2	252.1	259.8
Energy Intensity (toe/M€'10)	174	155	149	138	130	129

Source: EU Statistical Pocketbook 2015

Table 3: Gas prices table²³

*Euro per gigajoule

EU (27)	2005	2010	2011	2012	2013	2014	2015
Medium size households	11.21	14.41	15.61	17.39	18.18	18.56	18.47
Medium size industries	6.01	7.95	8.57	9.53	10.6	10.03	9.25

Source: Eurostat

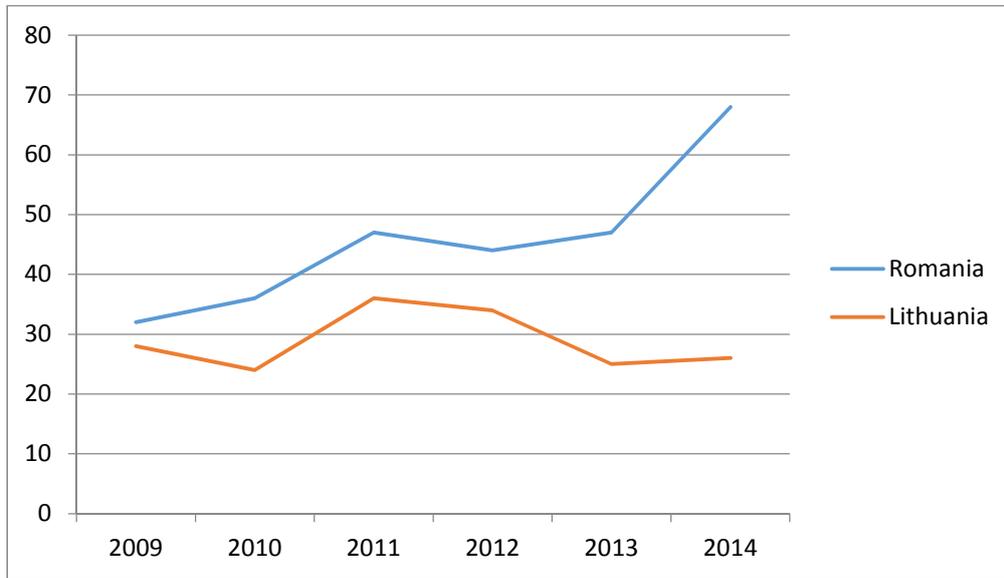
²³ <http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=ten00118>

Table 4: Differences between the three Packages

Legislative Packages	Unbundling of networks	Access to networks	Market opening	National regulation
First	Separate management & accounts	Negotiated or regulated terms of access	Power: 35% open by 2003	Mechanism for regulation
Second	Separate Subsidiary	Regulated terms of access	Power and gas markets 100% open by July	Specific regulator for energy
Third	Separate ownership or operator	Regulated terms of access	No change from the second package	Upgraded and harmonized powers for national energy regulators

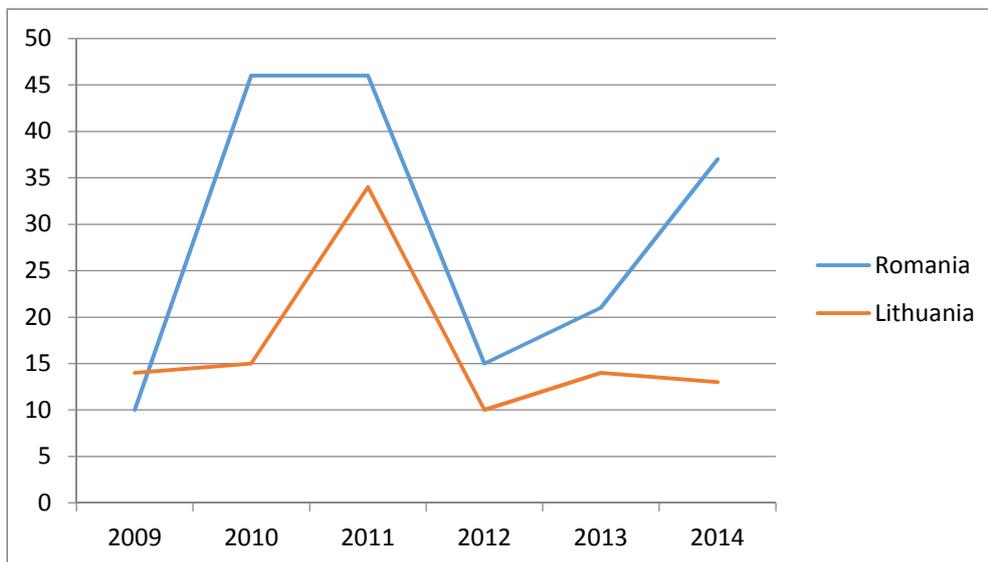
Source: Buchan (2010) p.364

Table 5a: *Infringement Cases open at the end of the year*



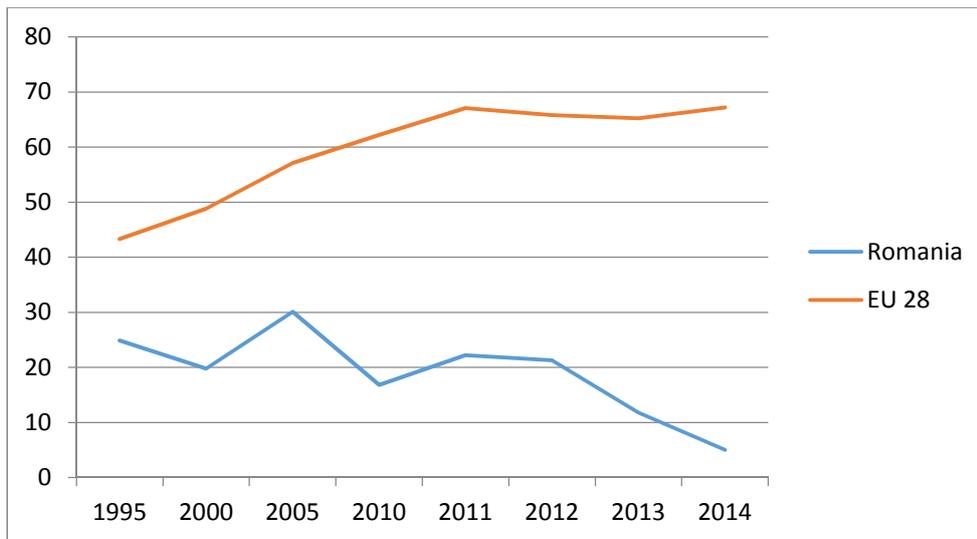
Source: EU Commission

Table 5b: *New late transposition infringement cases*



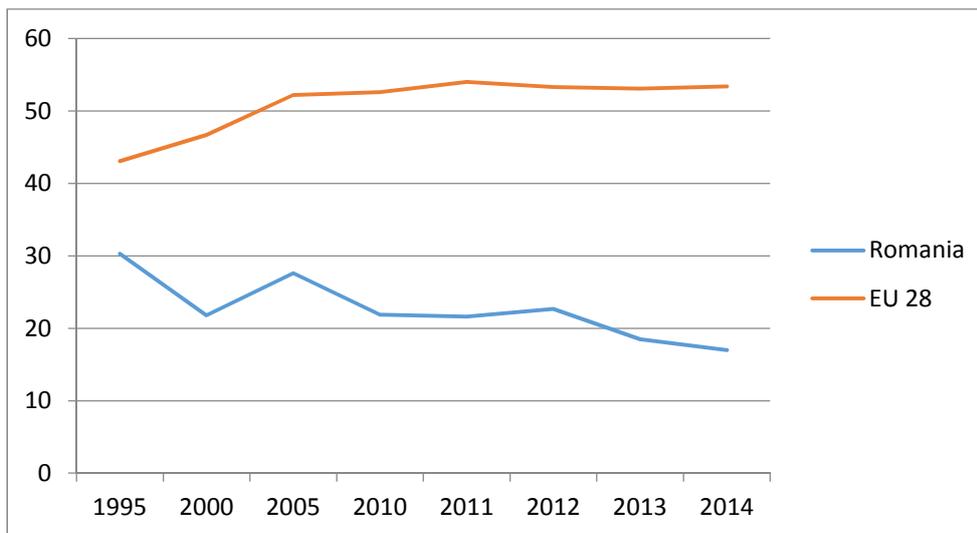
Source: EU Commission

Table 6a: *Energy Dependence, Product: Gas*²⁴



Source: Eurostat

Table 6b: *Energy Dependence, Product: All Products*²⁵



Source: Eurostat

²⁴

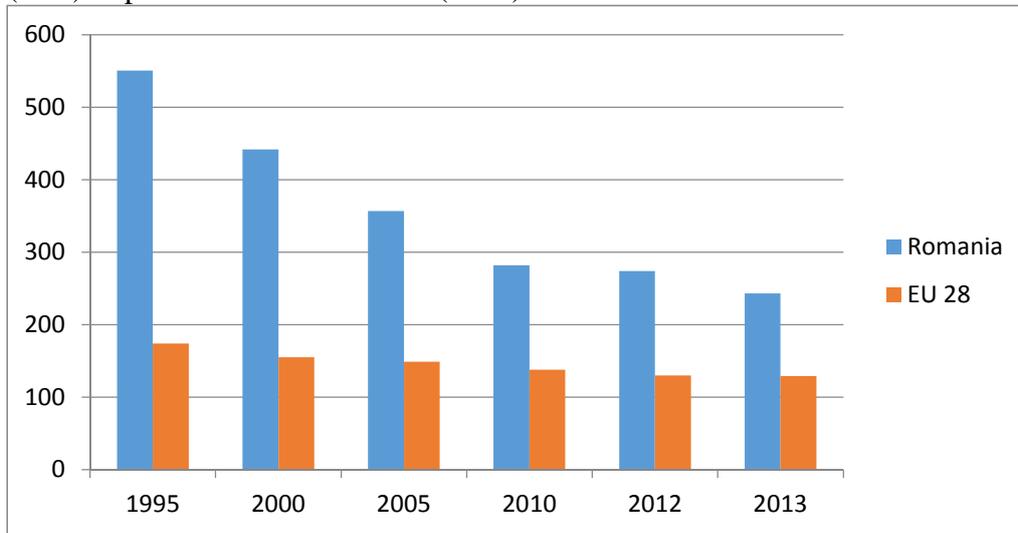
<http://ec.europa.eu/eurostat/tgm/refreshTableAction.do?tab=table&plugin=1&pcode=tsdcc310&language=en>

²⁵

<http://ec.europa.eu/eurostat/tgm/refreshTableAction.do?tab=table&plugin=1&pcode=tsdcc310&language=en>

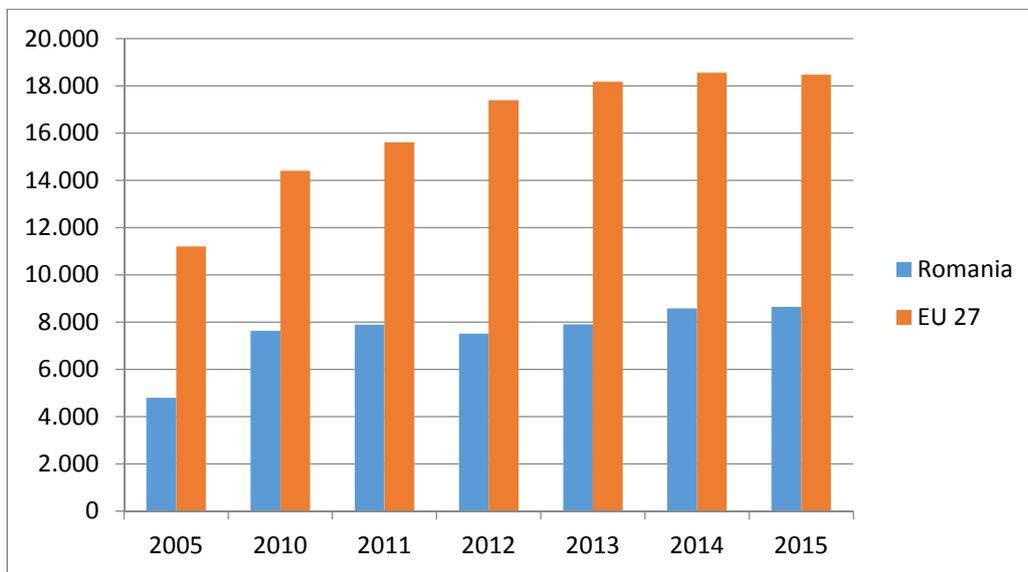
Table 7 : Energy Intensity ²⁶(toe/M€'10)

Energy intensity gives an indication of the effectiveness with which energy is being used (GIC) to produce an added value (GDP).



Source: EU Statistical Pocketbook 2015

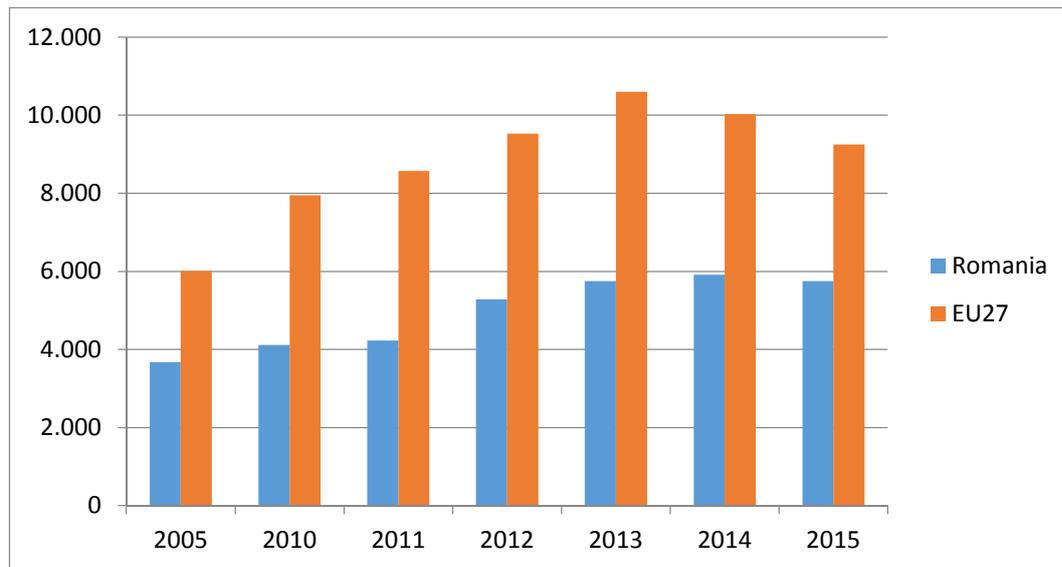
Table 8a: Medium size households (Euro per gigajoule)



Source: Eurostat

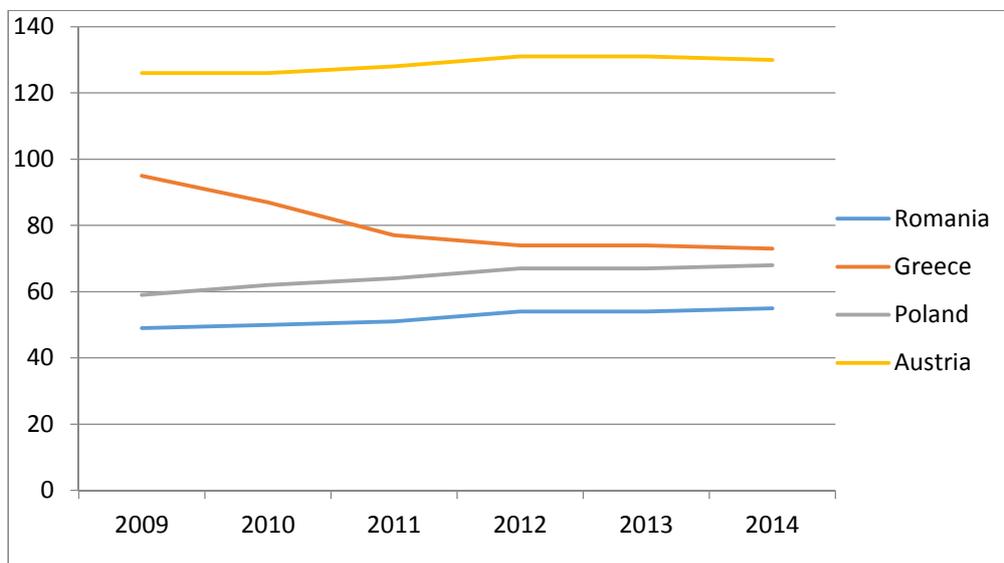
²⁶EU Energy in figures, Statistical Pocketbook 2015

Table 8b: Medium size industries (Euro per gigajoule)



Source: Eurostat

Table 9: GDP per capita table^{27 28}

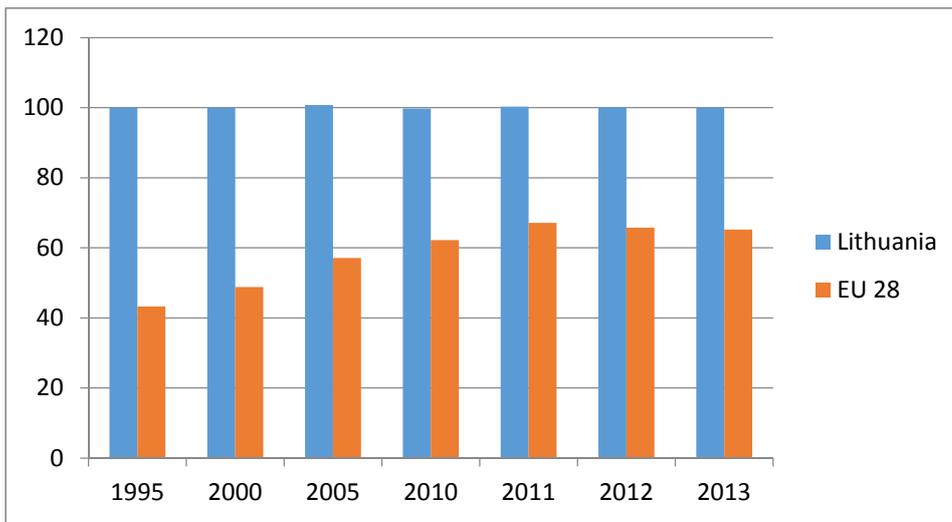


Source: Eurostat

²⁷Gross domestic product (GDP) is a measure for the economic activity. It is defined as the value of all goods and services produced less the value of any goods or services used in their creation. The volume index of GDP per capita in Purchasing Power Standards (PPS) is expressed in relation to the European Union (EU28) average set to equal 100. If the index of a country is higher than 100, this country's level of GDP per head is higher than the EU average and vice versa. Basic figures are expressed in PPS, i.e. a common currency that eliminates the differences in price levels between countries allowing meaningful volume comparisons of GDP between countries. Please note that the index, calculated from PPS figures and expressed with respect to EU28 = 100, is intended for cross-country comparisons rather than for temporal comparisons."

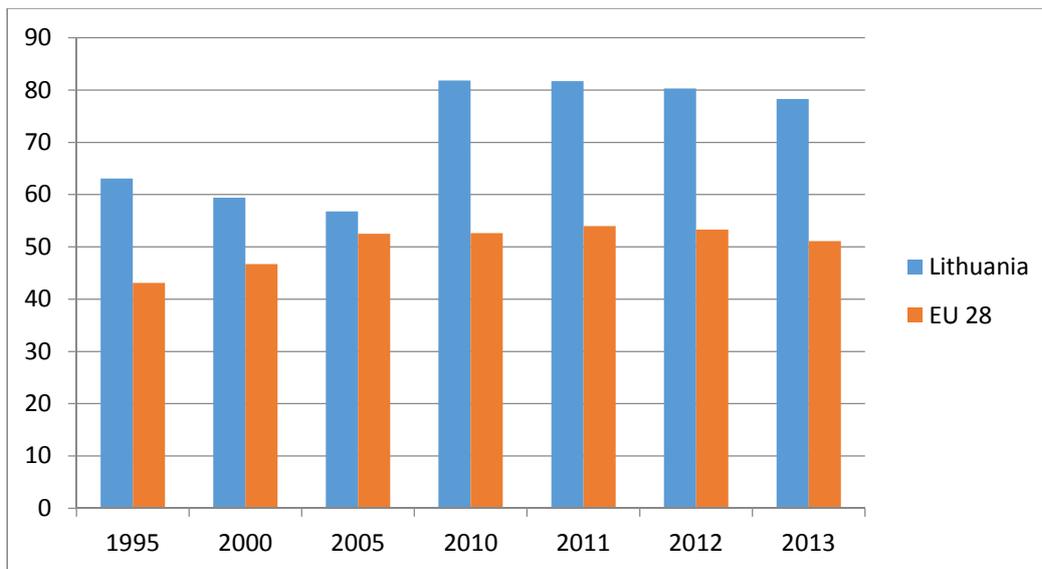
²⁸ <http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tec00114&plugin=1>

Table 10a: Gas Dependence²⁹



Source: Eurostat

Table 10b: All Products Dependence³⁰

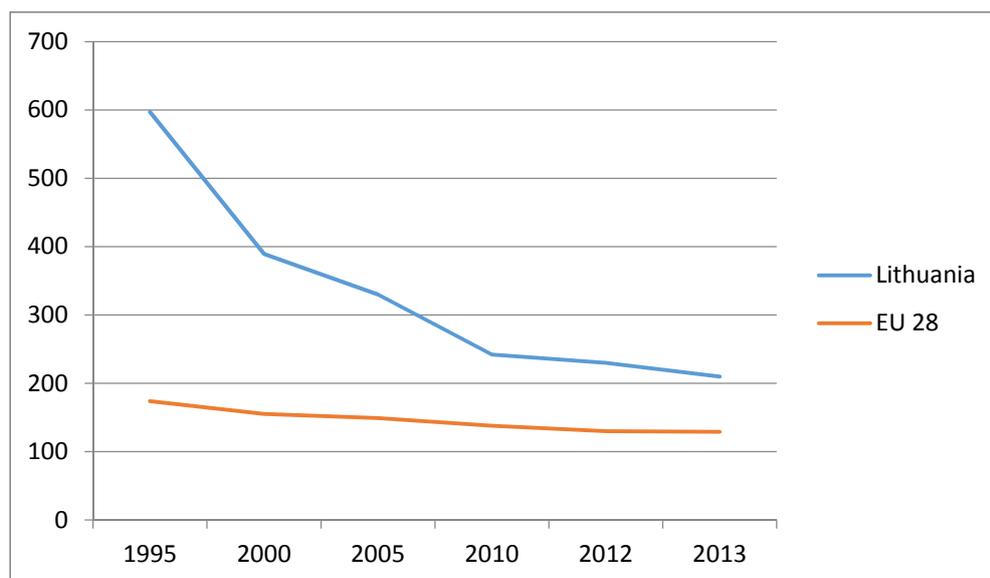


Source: Eurostat

²⁹<http://ec.europa.eu/eurostat/tgm/refreshTableAction.do?tab=table&plugin=1&pcode=tsdcc310&language=en>

³⁰<http://ec.europa.eu/eurostat/tgm/refreshTableAction.do?tab=table&plugin=1&pcode=tsdcc310&language=en>

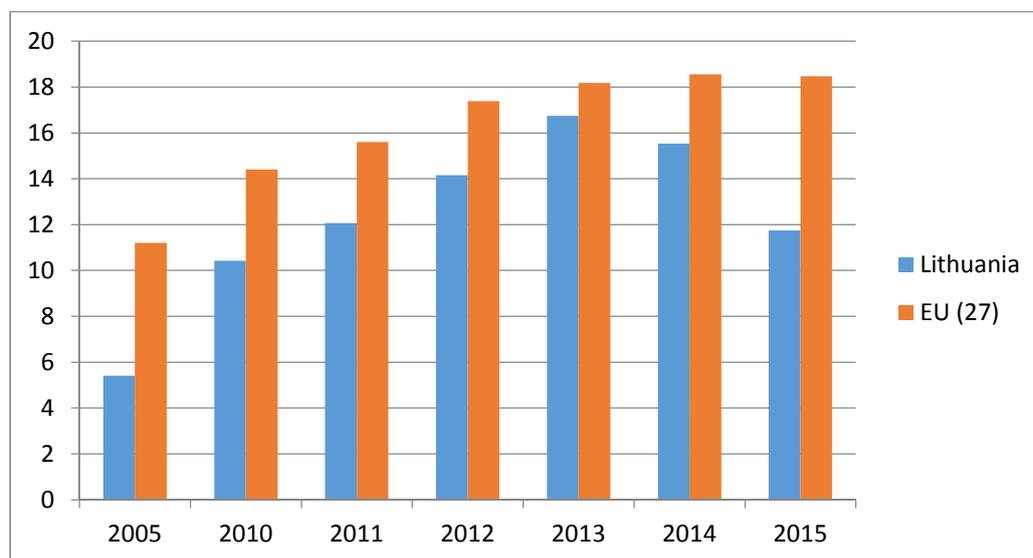
Table 11: *Energy Intensity*³¹ (toe/M€'10)



Source: EU Statistical Pocketbook 2015

Statistical Pocketbook 2015

Table 12a: *Gas prices - Medium size households*³² - (Euro per gigajoule)

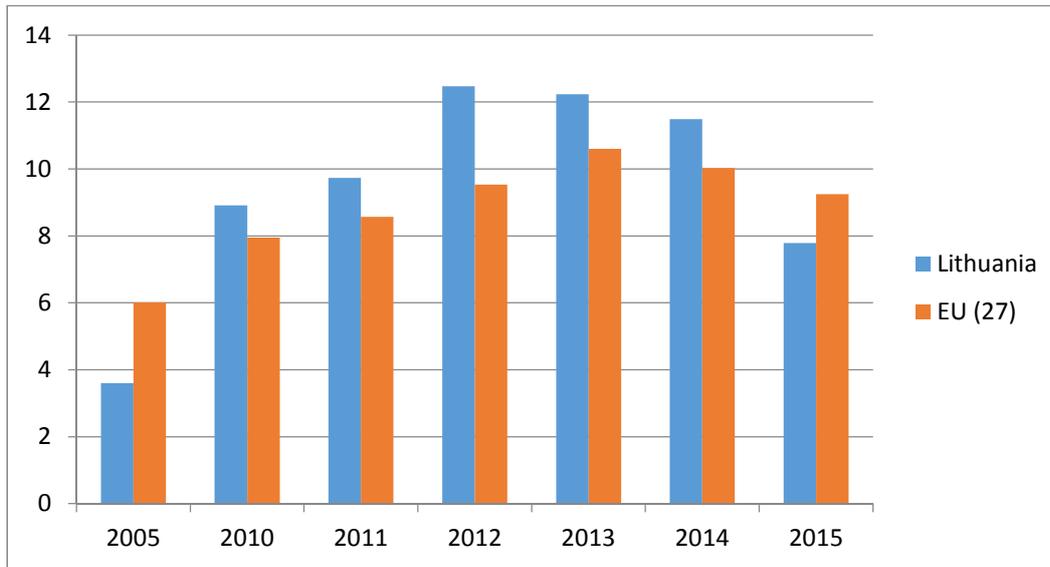


Source: Eurostat

³¹ EU Energy in figures, Statistical Pocketbook 2015

³² <http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=ten00118>

Table 12b: Gas prices second table - Medium size industries³³ (Euro per gigajoule)



Source: Eurostat

Table 13: Variables Affecting EU Compliance

Policy to transpose	Cost	Possibility to comply
Policy not directly for country's benefit	There is cost	Less likely to comply
Policy directly for country's benefit	There is cost	More likely to comply
	Lithuania	Romania

³³(http://ec.europa.eu/eurostat/tgm/web/download/Eurostat_Table_ten00118PDFDesc_2cb06236-b3e2-43b2-a796-731d9e52fc89.pdf)

Table 13 (cont.)

External relations	No division	No division
Internal politics	No division	Political Parties not united