

**How has the DIRECTIVE (EU) 2019/692 been lobbied by
interest groups at the supranational and
intergovernmental levels of the European Union in
regards to its security aspect?**

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Filip Štancel

Hjalte Morthorst

Mpiti Mosothoane

Robin Dickheiwer

Ondiz Ruiz Rodríguez

Supervisor: Thomas Paster

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Abstract

The paper seeks to understand the process behind the adoption of EU Directive 2019/692 by the European Union. In doing so, the paper examines the relationship between interest groups and the three legislative bodies of the European Union: the European Commission, the European Parliament, and the European Council. The bedrock of the paper's analysis stems from the securitisation of the Nord Stream 2 project; and further delves into other areas which include Member States' positions, the influence of interest groups, and provides an in-depth look at the policy cycle in relation to the Directive. The thrust of the analysis is encapsulated in four hypotheses, each of which explores different dimensions of the research question. Due to several constraints such as time and limited resources, the paper was not able to go into elaborate detail on some issues that might be relevant to the research question. Nevertheless, it offers a general overview of the key factors and stakeholders involved in the legislative process behind the Directive. The primary conclusion reached is that all interest groups and stakeholders lobbied the EU in pursuit of their respective interests, with securitisation serving as the overriding motive.

Keywords: energy, European Commission, European Council, European Parliament, lobbying, Nord Stream 2, securitisation, energy security.

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List of abbreviations

| Abbreviation | Definition |
|---------------------|--|
| The Directive | Directive (EU) 2019/692 of the European Parliament and of the Council of 17 April 2019 amending Directive 2009/73/EC concerning common rules for the internal market in natural gas. |
| EC | European Commission |
| EP | European Parliament |
| EPP | European People's Party |
| EU | European Union |
| LNG | Liquefied Natural Gas |
| MEP | Member of the European Parliament |
| MS | Member State |
| NRA | National Regulatory Authorities |
| NS | Nord Stream |
| NS2 | Nord Stream 2 |
| PGNiG | Polskie Górnictwo Naftowe i Gazownictwo S.A. |
| S & D | Socialists & Democrats |
| TAP | Trans-Adriatic pipeline |
| TEP | Third Energy Package |
| TPA | Third Party Access |

Introduction

The Lisbon Treaty boosted interest representation in the EU and interest groups began not only to focus on the European Commission (EC) but also on the European Parliament (EP) and the Council. It institutionalised regular dialogue between the institutions and representative associations and established procedures for public exchange of views and contribution to policy processes such as broad consultations (Greenwood, 2019, p. 8). Therefore, in the last two decades, there has been a huge increase in lobbying at the EU and national levels. This has meant a growing focus on the role of lobbyism in the academic literature (Coen et al. 2009).

Lobbying is fundamental to understand legislative processes in the EU. According to the pluralist view, competition between interest groups contributes to strengthening policy outcomes (Truman, 1951). This paper seeks to elucidate how this agile participation of interest group representation at the EU level is affected by securitisation by focusing on the gas energy field and the controversy raised by the Nord Stream 2 (NS2) project.

Geopolitical tensions flared up between the EU and Russia after the 2006 and 2009 Ukrainian crises and the takeover of Crimea in 2014. After these experiences, it is feared that Russia uses gas exports as a geopolitical tool against the interests of the EU. The old Brotherhood pipeline has been used by Russia to create chaos in Ukraine around the time of the annexation of Crimea, without threatening the further gas supply to the Western European states due to Nord Stream 1. The construction of Nord Stream 2 could increase Russian influence, as it can impact the mechanisms of solidarity established in the Third Energy Package threatening the stability of the Union with a *divide and win* strategy. EU Member States (MSs) have responded divided on the matter with countries involved in the deal fearing a big loss of investments and other States, particularly in the East, fearing the Russian influence.

In this divided context, the European Commission (EC) proposed a legislative process culminating in the Directive (EU) 2019/692 amending Directive 2009/73/EC concerning common rules for the internal market in natural gas (the Directive) that focuses on third-country access to the EU's internal gas market. This amendment was highly lobbied and unique, due to the fast-tracked pace of the legislative process and the implications it would have for pipelines coming from third countries, be it Russia, Norway, or Turkey. That brings up the question, how has the 2019 Directive been lobbied by interest groups at the supranational and intergovernmental levels of the European Union in regards to its security aspect?

Literature review

The research on interest group (IG) strategies and their effects on the legislative process in the past few decades has focused mainly on the American setting, where lobbying and its practices are more visible. Researchers have only recently focused their attention on interest group representation in the European Union (EU) and its member states in both the intergovernmental and the supranational settings.

As lobbying has experienced a notable boom on both sides of the Atlantic Ocean, research focusing on the comparison of interest groups in these two different but increasingly similar settings is more and more popular. The aim of Sqapi's (2015) comparative analysis was to pinpoint the differences in regards to style and content, as the techniques of lobbying are believed to be the same in the United States and the EU. Therefore, the research focused on the regulatory setting being more strict in the United States, divergent ways of funding of the interest groups, and also different types of representation of their interests. Kurshitashvili (2008) has clarified not only the differences between these two regions but also the similarities. However, his main finding was similar to that of Sqapi's (2015), the United States has well-regulated lobbying legislation while the EU does not. (Kurshitashvili, 2008) argues that there is a need for vigorous regulation in the European Union in order to accomplish similar lobbying standards as in the United States. However, he warns that more transparency could hinder the effectiveness and potency of the European legislative system. It needs to be taken into consideration that the political systems in the EU and the United States have different natures and that creates distinctive institutional constraints for interest groups and their lobbying practices. While in the United States "winner-takes-all-politics" is the norm, the EU has rather a consensus-building essence due to its intergovernmental nature. Therefore, the access of interest groups depends on their input to problem-solving policy approaches (Woll, 2012). While Mahoney's research (2007) did not focus on the comparison of the two different settings, it used data about interest groups from both sides of the Atlantic. She aimed to measure lobbying success and to create a model which could determine why

interest groups fail and succeed. To determine this, Mahoney identified three major factors. These were the aspects of the issue itself, features of the interest group and its lobbying strategy, and finally, similarly to Woll (2012), the institutional design of the political system. However, Mahoney (2007) agreed with Woll that the “winner-takes-all-politics” creates more competitiveness and less balanced policy compromises. However, on the contrary, the researcher concluded that the context of the issue itself is a much more relevant determinant of lobbying success than the institutional differences (Mahoney, 2007). On a similar note, Dür et al. (2015) also tried to analyse the possible success of interest groups exclusively in the European environment. They concluded that citizen groups are more successful in the policy process of the EU than their business counterparts. In cases when the clash of interest groups is small or the role of the European Parliament (EP) is restricted due to having no or little competence in the area, interest groups can protect their interests (Dür et al., 2015).

Research has not only focused on the comparison of the EU and the United States’ lobbying environment but also of other environments and among interest groups themselves. Berkhout et al. (2017) examined the difference between the interest groups’ influence on European institutions with those in four EU MSs: France, the United Kingdom, Germany, and the Netherlands. They looked at their systems, policy domains, and organisational factors as the main determinants and examined how these factors affect the diversity of interest groups. The research concluded that the EU system is not more biased towards interest group representation than the four national systems. Contrary to the findings of Dür et al. (2015), this research has concluded that interest groups representing business corporations are more capable and efficient to represent the interests of their members compared to civil society groups in both the EU and national systems. Finally, they acknowledged that there is a need for a more thorough and deep analysis of interest group diversity in the EU (Berkhout et al., 2017). More research on the comparison of the influence of various interest groups in the EU is probably needed as there is no clear consensus. Chalmers (2011) applied an information processing theory of interest group influence and used data from a large-scale online survey and interviews to compare the influence of interest groups. The research concluded that interest groups in the EU have comparable information processing capabilities and that

influence among the interest groups in the EU seems to be balanced. That is in clear contrast to the findings of Dür et al. (2015) and Berkhout et al. (2017).

Each interest group represents different interests of various organisations depending on the sector of the proposed policy. This has brought about an increasing number of research papers with single case studies analysing the influence of interest groups on specific policies and issues. Farah (2005) investigated the influence of interest groups on alcohol policy to identify which interest group is the most dominant in the EU's alcohol policy-making. This was done with the use of policy network analysis from the pluralist theory. The study found that interest groups are most influential when their interests correspond with the interests of the European institutions. However, most studies focus on topics related to the energy sector and environmental issues. Such is the case of the research by Cortes et al. (2020) about the potential influence of interest groups on the EU's green policies. They analysed the power that interest groups might possess due to the construction of the political system where policymakers are reliant on outside influence such as the European one. This was conducted with the help of corporatist perspective and the theory of three-dimensional power by Lukes which looks at the hidden power of interest groups, decision-making processes, and agenda-setting in policy-making (Cortes et al., 2020). Similarly, Kovacs (2017) looked at the environmental policies in the EU. To be more precise, the author tried to understand whether the position of environmental non-governmental organisations (NGOs) has decreased in the legislative processes of the EU. This was done by looking at the Euro-speak, a *"purpose-built vocabulary of terms to describe (and shape) the reality"* of the EU through the lens of the constructivist theory which helped Kovacs to understand the underlying power relations between the actors in the legislative processes. While Baiamonte (2017) focused on an environmental theme, specifically on the climate change and energy policy-making process, she used the theory of coalition formation by Sabatier to grasp the reality of coalition making, dynamics that bring different actors into coalitions, and what are the reasons of various coalitions overlapping. This was done by analysing the policy network of several selected actors and by showcasing different lobbying strategies used by interest groups and how these lobbying strategies influence the design of such coalitions (Baiamonte, 2017).

Baiamonte (2017) is not the only author looking at the concept of cooperation of interest groups at the level of the EU. Rasmussen (2015) analysed how such coalitions influence policy outcomes in the EP through the use of process-tracing analysis. The author process-traced not only official EU documents but also drew from letters by interest groups and 145 interviews. The paper concluded that the capability of an interest group to influence a policy outcome depends on a couple of factors, business unity and low salience of the issue being a few of the main factors (Rasmussen, 2015). Chapter two of Klüver's (2013) book called "*Lobbying in the EU: Interest Groups, Lobbying Coalitions, and Policy Change*" also addressed lobbying in coalitions while taking into consideration the institutional context and the interdependent relationship between European institutions and interest groups with exchanges of various types of resources such as information or citizen support. It acknowledged that the exchange relationship highly depends on the issue of the context at hand similar to the findings of Rasmussen (2015). To analyse this topic, Klüver (2013) utilised data from different sources such as quantitative analysis of European Commission (EC) consultations, legislative data from EU databases and surveys of interest groups engaged in the legislative processes in the EU.

Two major theories are predominant among the studies of interest groups. These are the theories of neo-corporatism and pluralism. Cortes et al. (2020) used neo-corporatism to analyse interest group dynamics in policy-making, as neo-corporatism looks at the institutional cooperation between interest groups and the state, which is in this case the EU, both in the policy-making processes and in the implementation of such policy. Moreover, Michalowitz (2004) utilised the neo-corporatist theory which focuses "*on the steering and output side of the system*" due to the nature of the EU's institutionalised interest group intermediation.

Pluralism and neo-pluralism, the contending theories to neo-corporatism, have also been applied numerous times by different researchers. David B. Truman (1951) applied a classic pluralist analysis of interest groups in his study. Moreover, he focused on the relationship

between political decision-makers and interest groups. Similarly to Baiamonte (2017), he emphasised possible multiple or overlapping memberships of corporations in various interest groups. Neo-pluralism builds upon the theory of pluralism coined by Robert Dahl. McFarland (2007) explained that neo-pluralism was created through modification and removal of some of Dahl's ideas and notions while introducing new interests of analysis, such as advocacy coalitions, social movements, or agenda building. Cerny (2010) looked at contemporary world politics through the lens of neo-pluralism. Therefore, he acknowledged that the world of politics is constantly being pressured by an increasing number of actors most of whom are nowadays organised transnationally and that the power of such groups has grown in recent times. Cerny (2010) concluded that while such interest groups and coalitions will not replace nation-states, it will lead to the creation of new transnational power structures with different dynamics.

Transnational interest groups have also been analysed through the lens of instrumentalism according to which power comes from political activities such as lobbying and the resources spent on such activities. Therefore, political power shapes economic outcomes, and economic forces limit political action (Hosli et al., 2004). Mitchell and Schmitz (2014) analysed transnational NGOs with the help of principled instrumentalism. This theory connected scholars' view of these organisations as principled actors pushing for causes such as environment, human rights, or humanitarian help with the fact that they are also behaving instrumentally through trying to maximise their resources which goes against their principled nature. On the other hand, there have been attempts to utilise structuralism to analyse interest groups. Focusing on structural sources of business power acted as a criticism towards the pluralist model of politics which was predominant among the scholars (Block, 1977).

When analysing interest groups, many researchers have focused on the information and knowledge exchange between these groups and institutions as it is a vital part of these interdependent structures. Bouwen (2002) showed that the degree to which interest groups have access to European institutions can be explained with the theory of demand and supply of access goods. Information is an access good which interest groups try to supply to get

better access to a specific institution of the EU such as the EC or the EP (Bouwen, 2002). Chalmers (2013) revealed that policy-relevant information can be gathered by interest groups through network structures. Therefore, interest groups with strong network ties are more likely to have policy-relevant information and knowledge and, therefore, will have a higher chance of influencing the EU policy-making process. However, the possibility of influencing a policy depends on the type of information provided as mentioned in the research by Flöthe (2019). Provision of technical information by interest groups advances the chance of impact on the policy-making process, while information about public preferences is, on the contrary, negative. Therefore, Flöthe (2019) argued that the pertinence of different types of information depends also on the public opinion or salience of the topic which is similar to the findings of Rasmussen (2015).

To conclude, a significant part of the research has utilized one of these main theories (neo-corporatism, pluralism, instrumentalism, structuralism) to study interest groups in the USA, the EU, or both. Recurring themes in the current literature are power relations, the extent of interest groups' influence on policy-making, information exchange in the interdependent network structure, and coalition creation and unity of interest groups. Several times, findings of research by various authors have been contradictory. However, such contradictory findings might be possible because of different interest group sectors being analysed in the various studies.

While there has been an increasing amount of research on interest groups and their impact on policy-making processes in the EU in the last decade, there are still possibilities of research in this area. Therefore, we have decided to use some of the aforementioned theories with our case study which is unique as there has not been a long period when interest groups were able to influence the policy-making process. Moreover, not many studies have looked at the topic of lobbying and interest groups in relation to a highly securitised field such as the energy sector and EU MSs' dependence on third-country supplies of gas and oil.

Problem formulation

The controversial NS2 project has been highly disputed in Europe, due to the security concerns that many actors have expressed. Therefore, we decided to research Directive 2019/692. We try to answer the research question: “How has the Directive 2019/692 been lobbied by interest groups at the supranational and intergovernmental levels of the European Union in regards to its security aspect?”. To research this we separated our research into several parts. One focusing on the securitisation of the NS2 project, the second part on the national attitudes towards NS2 and how this impacts the lobbying strategies. And lastly, we research the impact it has on lobbying in the EU. This part is as well separated into two different perspectives. One focusing on the resource exchange between the institutions and interest groups in the case of Directive (EU) 2019/692, and the other focusing on the most efficient way to influence policy-making in the case of the mentioned directive.

Methodology

We use a variety of methods in this paper. These include the constructivist and structuralist approaches, as well as the rational choice and power dependence approaches. These were selected based on the theories used in the specific hypotheses and material available to conduct the research.

We have used a single case methodology, which is generally appropriate when the research question requires exploring a topic about which there is very little related research, as is the case here. We have selected this specific case study with the assistance of prospective interviews with two former Members of the European Parliament (MEPs). The information provided by these interviewees and the fact that there were more than 30 contributions to the open consultations, made us select this Directive as suitable for our study.

Primary data

In this paper, we used a variety of primary resources. These primary resources include the transcripts from parliamentary debates of the EP, official documents such as EU legislation, proposals for such legislation, consultations of interest groups to aforementioned legislation, communications and statements by various politicians and EU institutions as well as interviews. Most of these data were accessible through the websites of the EU.

Energy policy documents

The two main pieces of literature used in our research are the EC's 2017 proposal of amendment of the Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas (the Directive 2009) that launched the legislative process regarding the gas supply in addition to the actual passed Directive that further regulated gas pipelines connecting non-EU countries to the EU.

Other energy policy documents have also been analysed, such as "Communication from the Commission to the EP and the Council on the European energy security strategy" of 2014, or the EC's proposal "Proposal for a regulation of the EP and of the Council concerning measures to safeguard the security of gas supply" of 2016.

Interest group consultations

Even though there has been no round of closed consultation regarding the Directive, open consultations have provided dozens of accessible documents from various interest groups not to mention different corporations from the gas and oil sector.

We made a qualitative analysis of the consultations using Nvivo to identify arguments and categorise the consultations into two groups: one that is supportive and one that is opposing the Directive. Out of those groups, the key arguments were analysed and put into comparison to changes that the EP made in the legislation.

Interviews

We have compiled a list of relevant European and international interest groups and organisations with an interest in EU energy and green policies and other notable actors. The next step in the process was contacting these various actors electronically. In order to interview these interest groups, we have created a list of questions formulated based on the profession of the interviewee. The list of questions had three variations. The first one was accustomed for politicians from different European political parties, the second one for interest groups advocating for corporations from the energy sector, and the last but not least, for interest groups advocating for green technology and solutions such as various NGOs. Therefore, the interviews had a structured format. In the end, we have conducted interviews with two former MEPs that were in the EP at the time of the passing of the Directive as well as a lobbyist who previously worked with the Directive. Current conditions due to the covid pandemic have not allowed for interviews with physical attendance. Therefore, all interviews have been conducted online.

Debates from the EP

We have coded 36 topic-relevant debates at the EP between 2015 and 2019 to elucidate whether energy securitisation has led to the amendment of the 2009 Gas Directive. The selection of debates was done through the search of keywords such as energy security or “Nord Stream”. We have conducted an analysis of the MEPs’ interventions on one side, and the commissioner’s interventions on the other.

Statements

We have also included public statements by different officials both at the national and EU level by MEPs, EU commissioners, or prime ministers of EU MSs. These statements include Donald Tusk's interventions in the media or remarks by the Bulgarian Prime Minister, Boiko Borisov.

Process tracing

Process-tracing is a method that requires examining the policy process and understanding the changes that have been introduced to the legislation (Dionigi, 2017). According to Klüver (2013), process tracing is suitable for single case studies. As lobbying often takes place behind closed doors, process tracing can become difficult because it relies on observations (Klüver, 2013).

However, the chosen Directive does not contain closed stakeholder consultations prior to the proposal, which partly eliminates that concern. As mentioned, we also conducted interviews with involved actors to shine a light on potential behind-closed-doors activities.

Secondary data

In order to conduct our research systematically, we followed this five-step guide:

- **Defining the research question & eligibility criteria**
 - To fulfil this step, we have decided to look for previous research on the topic of lobbying in the EU, EU energy policies, and EU green policies. However, papers and literature we have taken into consideration for our research must have come only from credible sources such as peer-reviewed articles and credible databases such as Google Scholar, The Royal Library, or JSTOR. We have not decided on any time restriction for literature we would use later on.

- **Searching for studies**

- The next step in the research process was searching for available and credible literature. To help our search, we have used keywords related to the topic of our interest such as the European Union, lobbying, lobbyism, influence, interest groups, Nord Stream 2, EU energy security, securitisation, EU legislation.

- **Selecting the studies**

- We have chosen the texts based on how specifically they could answer our research question. These texts had to also fulfil our eligibility criteria. Moreover, using literature by renowned authors in the researched topics such as Klüver or Coen has created a snowball effect of finding more eligible papers and research.

- **Data extraction**

- This step encompassed extracting information regarding all our hypotheses from the researched data. This information was relevant to the topic of interest influence on institutions of the EU, stances of EU MSs, resource exchange between EU institutions and various interest groups, and securitisation of the EU.

- **Data synthesis**

- We have created a document describing the applied theories from the researched literature. This list included the name of the theory, its author, the literature where it came from as well as a conceptual explanation of the theory. This step helped us to pick what theories would be the most applicable for our research question and research design.

Conceptual Framework

Our conceptual framework consists of multiple theories ranging from the Copenhagen School of Security's framework to agenda-setting theory. As our analysis is composed of four hypotheses, each hypothesis is analysed with the help of a different theory or framework in order to gain a deeper overall understanding of the researched case.

Hypothesis 1 – The Directive (EU) 2019/692 is the result of the securitisation of both energy security and the NS2 project in the EU

The Copenhagen School of Security framework

It is our hypothesis that the 2019 Gas Directive is the outcome of the successful securitisation of energy security in general and of NS2 in particular. To determine whether this is the case, we will use the Copenhagen School of Security's (CSS) theory (Wæver, 1995; Buzan et al., 1998). The CSS regards security as a social construction, a self-referential social practice produced through discursive interaction (Buzan et al., 1998, p. 204). It establishes that securitisation is the result of a securitising speech by a relevant actor who exposes a threat to a value object. This discourse can either be ignored or acknowledged by an audience. If the latter happens, then the use of extraordinary measures by the securitising actor is legitimate.

The CSS framework has been criticised for being too narrow to accommodate reality. Consequently, to proceed with our analysis, we have incorporated a critical approach. Firstly, the context will not be narrowed to a security speech. Instead, following Guzzini (2011), we incorporate the view that securitisation is a process that develops in time through a series of securitising moves, which are not only diachronic but also synchronic. Our analysis is centred around the 2015-19 term, as it includes the Directive's legislative process and the immediately previous period. Secondly, and as a consequence, a multiplicity of sources is required for the analysis. As Balzacq (2011) recommends, we have coded a variety of

documents including the key EC policy documents on energy security, parliamentary debates, individual declarations of Donald Tusk, and the EP's study "*Energy as a tool of foreign policy of authoritarian states, in particular Russia*". Finally, we will follow the view that extraordinary measures can be taken within the normal political process (Salter, 2010; Szulecki, 2018). This is where we situate the 2019 Gas Directive.

Hypothesis 2 - National attitudes towards the NS2 have impacted the lobbying practices of interests groups

Framework by Greenwood and Michalowitz on lobbyism

To analyse whether national attitudes have impacted the lobbying practices we have applied the framework provided by Greenwood (2017) and Michalowitz (2007). Greenwood argues that actors who wish to engage with EU policy-making have different strategies or routes to choose between, these are primarily between indirect lobbying through the MSs via the national route or directly at the EU level via the Brussels route. The interest groups have to choose between the routes dependent on factors such as the nature of the issue, type of interests affected, and prevailing context (Greenwood, 2017).

Furthermore, aspects from Michalowitz have been included as he argues that the degree of conflict in the legislative process impacts how interest groups can exert influence. If there is a high degree of conflict and the interests of the interest groups are conflictual to the decision-makers, it is more difficult to gain influence. However, in issues with a low degree of conflict and consensus between decision-makers and the interest groups, it becomes easier for them to exert influence (Michalowitz, 2007). Therefore, we apply the framework to gain further insights into how these have influenced the lobbying practice in the legislative process of the 2019 Gas Directive.

Hypothesis 3 -An exchange of resources between institutions and influential interest groups led to the passing of Directive (EU) 2019/692.

Agenda-setting theory incorporating the theory of access & policy network analysis

The framework for analysing the impact of information exchange on EU relations with interest groups draws from three theoretical paradigms. Firstly, we use the agenda-setting theory to underscore the importance of raising an issue to the top of the political agenda as a tool for lobbying (Coen et al. 2021). As the primary source of legislation in the EU, the EC is the focal point of our analysis using this theory. We explore the possible ways in which interest groups lobby the EC to try and channel their interests into EU legislation. Secondly, we discuss the role of policy networks in the circulation of information among different actors (Chalmers, 2013). In this part, we focus on the policy networks within the EP and their possible roles in the drafting of the Directive. Lastly, we draw on the theory of access as elaborated by Bouwen (2002) to explain how information is used by interest groups as a proverbial token for gaining access to the EU's legislative bodies and its key decision-makers. The theory explores how the different informational needs of each of the three bodies make it such that interest groups must devise and tailor their strategies accordingly if they are to be effective at lobbying.

Hypothesis 4 - In the creation of Directive (EU) 2019/692, interest groups that lobbied primarily in the agenda-setting phase were more successful than those that focused on the formulation and decision-making phases of the policy cycle.

Pluralist theory, structural support by policy-cycle

This hypothesis tries to explain how influence is most effectively achieved on legislation. First, the pluralist theory makes us look through the lens of competing interest groups (Grant, 2015). However, we argue that cooperation between interest groups with similar interests is possible but accordingly difficult to measure the influence of each IG. Therefore, we categorised them into two camps. One supporting the legislation and the other fighting the legislation.

To effectively structure this analysis, we use the stages of the policy cycle to coordinate the most effective way for influence in the different stages.

Preference-attainment

The preference attainment theory compares position papers of interest groups with the final legislation that was passed (Klüver, 2013). Arguments are coded and compared. Due to the categorization that we conduct with the consultations, we are able to show what side of the argument had more influence in the changing of the wording in the final legislation. The weakness of this method is the black-box problem (ibid.). However, in combination with hypothesis 3, this analysis becomes more thorough due to the additional inclusion of the process-tracing method in hypothesis 4.

Theoretical Summary

Through the use of Copenhagen School of Security's framework, we introduce the environment in which the researched Directive has been discussed and implemented. This is especially taken into consideration in connection to NS2. We build on this with the framework on lobbyism by Greenwood and Michalowitz in order to show different routes interest groups use to influence the decision-making process in a field that can be highly securitised and whether this happens at the supranational or national level. On the one hand, we consider lobbyism at the national stage by introducing examples of nation-states and their stance on NS2 construction. On the other hand, we look at lobbyism at the EU level through the lens of pluralist theory, agenda-setting theory and policy network analysis with help of other minor theories in order to understand where is lobbyism happening at the EU level and what resources are exchanged during such instances of lobbyism. Thanks to this, we will gain a full understanding of lobbyism in a highly securitised topic, such as the Directive (EU) 2019/692, on both possible levels.

Analysis

Hypothesis 1: The Directive (EU) 2019/692 is the result of the securitisation of both energy security and the NS2 project in the EU

Our initial hypothesis is that Directive (EU) 2019/692 is the outcome of an energy securitisation strategy led by the EC to stop the NS2 project, which is considered a threat to energy security and to political stability as it could be used by Russia as a foreign affairs tool against European interests.

Energy security and securitisation

The concept of “energy security” seems to be omnipresent and is commonly used in the literature. However, there is no consensus on its definition. Szulecki argues that a one-size-fits-all definition does not account for contextual-dependency, which is being increasingly claimed as essential to the understanding of security studies and processes of securitization (2017, p. 5). The author uses the intense debates on the NS2 project to show that although all conflicting parts referred to energy security as their main argument, they were pointing to very different understandings of what this concept represents (Idem, pp. 6-7), as we will show later in our analysis. Thus, we can infer that energy security cannot be objectively defined as even if vulnerabilities, exposure to risk and resilience could be measured, actor’s values and interpretations would be crucial for the understanding of how energy security is regarded in a given context (Idem, p. 11). Accordingly, “*energy security cannot be analysed as an exclusively objective condition but is better understood as an intersubjective phenomenon*” (Idem, p. 12).

Security and securitisation are different concepts. “Securitisation” was first introduced by Ole Wæver (1995) and later Barry Buzan and Jaap de Wilde (Buzan et al., 1998) contributed to elaborate on it creating the CSS framework. According to it, for energy security to be securitised, there needs to be a perceived threat against it exposed by a securitising actor and acknowledged by a public that legitimises extraordinary measures. Therefore, energy security is not always securitised. Some authors argue that it in fact rarely is (Szulecki 2017, p. 13). In Jonna Nyman’s view, while *“energy security is sometimes securitised, it often is not, despite being the subject of consistent security speech-acts by elite actors”* (2013, p. 1). This implies that selvom securitisation moves might take place, they are not always acknowledged by the targeted audience.

According to Hofmann and Staeger (2019), the securitisation of energy in the EU was started by a small number of MSs led by Poland as a result of the first two Ukraine crises of 2006 and 2009. Later the European Council (Council) joined Poland in framing Russia as a security threat. We have easily identified Donald Tusk, president of the Council between 2014 and 2019 and Prime Minister of Poland between 2007 and 2014, as a securitising actor. We have analysed some of his declarations in the media and concluded that since he was the Prime Minister of Poland he has clearly linked gas imports to threat and has pointed to Russia as a potential aggressor. In 2014, while still Prime Minister, he declared *“Germany's dependence on Russian gas may effectively decrease Europe's sovereignty. I have no doubts about that. (...) We will not be able to efficiently fend off potential aggressive steps by Russia in the future if so many European countries are dependent on Russian gas deliveries or wade into such dependence”* (Reuters, 2014).

Later, during his Council presidency, he took every opportunity to warn about Russia and convince the MSs of the threat it constituted. Through time, he has raised the tone of his interventions. In 2018, he declared that *“our problem is Russia, which is undermining whatever it can undermine in Europe. (...) I can provide numerous examples to prove that Russians will not refrain from any means to weaken European unity. (...) If there is [a nation]*

somewhere whose main political priority is to disintegrate Europe, this certainly is Russia” (Politico, 2018).

The securitisation discourse, following Hoffmann and Staeger, was incorporated by the EC in 2009 after Barroso’s “European Energy Policy for the 21st century” discourse (2009, p. 335). Barroso feared a new disruption in the Russian gas supply due to the Ukrainian crisis: *“The challenges are real, and unfortunately immediate. (...) So when we talk about European energy policy, security of supply is today our foremost concern. (...) We have to hope for the best but prepare for the worst”*. Consequently, he advanced a series of not only prevention but also emergency preparedness and crisis response mechanisms contained in the Third Energy Package that was approved hours later. It incorporated the objective to increase energy interconnectedness and energy market integration, diversifying energy routes and suppliers, or improving energy efficiency among other measures to increase energy resilience (Barroso, 2009).

In 2014, energy security was put on stage again. In its energy security strategy, the EC recalled the two previous Ukrainian-Russian crises and defined them as *“a stark “wake up call” pointing to the need for a common European energy policy”* (EC, 2014a) to face a new crisis in Ukraine due to the Russian annexation of Crimea. This together with the fact that the stress tests run by the EC showed high vulnerability of the EU in the event of energy shocks coming from Russia (EC, 2014b) boosted the Union’s securitisation process.

This is the context in which in 2015 Russian gas exporter Gazprom announced the construction of NS2. There were some commercial arguments in favour of this new project. Once completed, NS2 would transport most Russian gas exports to Europe. It would be a shorter and cheaper route from the Yamal gas field, partially replacing the “Brotherhood” route through Ukraine and Slovakia that had proven to be unstable and unreliable. However, there were geopolitical concerns as NS2 would make Europe more dependent on Russian gas, concentrating Russian exports on a single route and threatening the continuity of the Ukrainian route, considered strategic by the EU. Additionally, the pipeline could reduce

incentives to import alternative sources, such as liquefied natural gas (LNG), or to promote renewable energy. Besides, NS2 contributed to the divided positions of MSs, as we will see in the following chapter. While the Eastern countries, especially the Baltic republics and Poland were firmly against it, Germany saw it as a sound commercial project. This was seen as a threat to the European energy solidarity principle. But most importantly, it was feared that this increased dependence on Russian exports would give the Kremlin geopolitical leverage (EP, 2017).

The securitising actor: The European Commission

In our analysis of the EC's discourse, we have found that energy security is named constantly as a policy objective. However, there is neither a direct denounce that Russia threatens European energy security nor a direct suggestion that gas exports could be used by Russia as a geopolitical tool. It is logical to think the EC will not name Russia as a direct threat. This is in line with the findings of Andreas Heinrich and Kacper Szulecki, who argue that empirical evidence shows that security references are often not associated with any existential threats and that referents are rarely specified. In their view, the process of securitisation is gradual and incremental and thus *"an issue can be placed on the security continuum without necessarily ever reaching the category of existential threat"* (2018, pp. 45-46). Therefore, we must determine whether there is any evidence in the EC's discourse that shows a tendency towards energy securitisation.

Though no direct link is expressed between Russia and threat, Russia is mentioned repeatedly in the gas legislation, unlike other gas exporters. Reliance on Russian imports is seen with great concern, and distrust of its reliability as a supplier is obvious. Furthermore, previous energy supply crises, the Ukrainian ones, are mentioned as learning lessons that led to the current energy policy, as the European Energy Security Strategy shows (2014). The Commission's proposal for a regulation concerning measures to safeguard the security of gas supply from 2016 says that *The rationale for the proposed design of the majority of the*

regions (Southern Gas Corridor, Central-East, South-East, Baltic Energy Market I and II) is the supply pattern in the event of disruption of the supply from Russia (European Commission, 2016, p.9) Therefore, these concerns about potential Russian disruptions seem to be the guiding thread of the European energy security regulation.

The response of the EC to increase European energy resilience was the creation of a European integrated energy market with the following characteristics:

- Good interconnections between the MSs and the principle of solidarity as a concrete obligation to counter possible (Russian) energy disruptions. Energy cooperation is based on risk groups. The solidarity clause is triggered automatically whenever one of the MSs is seriously affected by a cut in gas supply.
- Diversification of routes and suppliers – granting safe transit through the Ukrainian route.
- Diversification of energy sources by promoting the consumption of LNG and the generation of indigenous renewables.
- Promotion of energy savings.
- Enforcement of international market rules.
- Transparency of gas supply contracts to avoid a divide and conquer strategy by Russia.

It is worth noting that in 2016 the EC also highlighted energy networks as potential targets in hybrid war (EC, 2016).

Some authors consider this security strategy to be based on risk, and not threat. Therefore, they talk about “riskification” (Heinrich & Szulecki, 2018, p.46), referring to the perception of risk against a referent object with the outcome that policy solutions are created as a preparedness strategy. However, we want to stress the fact that the measures proposed in the analysed documents respond exclusively to possible Russian disruptions. Russia is omnipresent in the European energy legislation and in the debates about energy. This is a constant tendency in all the years of the studied period. Vulnerabilities before other suppliers

are simply ignored. “Risks” coming from a single provider can easily be perceived as threats and, therefore, we can affirm that there are signs of securitisation.

On the other side, Hofmann and Staeger claim that at the policy proposal stage the EC is driven by security discourses, but that the measures taken in response point to economic security and market aspects, rather than to collective securitisation (2019, p. 323). However, again this market response aims at countering vulnerabilities before Russia and no other suppliers. In our view, this obsession with Russia and the fact that the European energy security legislation has been designed as a response to real and potential Russian disruptions are indicative of a securitisation process. As we will see later, the Directive is a good example of how the market regulatory tool can be used selectively to address geopolitical issues.

Regarding NS2, the EC’s stand is clear: it is firmly against the project. Although initially, the EC’s stand was more tendent to accepting the free evolution of the market, soon their disapproval of the project was firm. The Commissioner for Climate Action and Energy Arias Cañete (2014-19) stated this position as follows:

“Our strategy is diversification of sources and routes. Nord Stream 2 does not follow this core policy objective. On the contrary, if constructed, it would not only increase Europe’s dependence on one supplier, it would also increase Europe’s dependence on one route. More precisely, the project would dry out the transit through Ukraine, concentrate 80% of Russian gas imports on one route, and would lead to a dominant position of Gazprom on the German market by increasing its share from 40% to over 60%. Therefore the alignment of this project with our European energy strategy on security of supply raises serious doubts. (...) For these reasons, the Nord Stream 2 project cannot ever become a project of common interest. It cannot ever benefit from European Union financing or European Union support” (Cañete, M.A., 2015).

Soon the EC stressed the importance that NS2 complies with EU law. In EC Vice-President Maroš Šefčovič’s words: *“(...) Nord Stream 2, if built, has to be operated under a legal framework which also takes duly account of the key principles of our energy market rules.*

But let me be very clear: the impact of the Nord Stream 2 project goes clearly beyond the legal discussions. Nord Stream 2 could alter the landscape of the EU's gas market while not giving access to a new source of supply or a new supplier, and further increasing excess capacity from Russia to the EU" (Šefčovič, M., 2016). This message was also insistently repeated by Commissioner Arias Cañete.

These concerns led the EC to an intent to stop the construction of NS2 through a legal strategy. The Third Energy Package incorporates Third Party Access provisions (TPA), which force the operators of transmission networks to allow any supplier non-discriminatory access to the network to supply customers (EC, 2011). The EC hoped that Gazprom would desist from continuing with the project if TPAs were enforced. This explains why in our analysis we have found this legal element in the EC's discourse on numerous occasions (at least 16 mentions in 9 different documents).

However, later the EC's legal service stated that TPA regulations were not applicable to offshore pipelines and this led to a new strategy to stop NS2. In June 2017, the EC adopted a recommendation to the Council requesting a mandate to negotiate with Russia an intergovernmental agreement on the operation of the pipeline with the aim to ensure that it is operated according to EU energy rules. This was evaluated by the Council's legal service and its conclusions also prevented this attempt to stop NS2 from succeeding (Jong and de Graaf, 2020, pp. 6-7).

As both the legal services of the EC and the Council had concluded that the 2009 Directive was not a sufficient framework to regulate pipelines to and from third countries, the next move was to amend it to extend TEP regulations to gas pipelines to and from third countries as well as offshore. The MS, in whose territorial waters is the first interconnection with the network, would have legal oversight (Germany in the case of NS2), but the EC would retain veto capacity. This is very relevant because the amendment allowed derogations for existing pipelines and exemptions to future projects. Not surprisingly, eventually, only NS2 was

critically affected, as the Trans-Adriatic pipeline (TAP), the other major project in process, got an exemption (EC, 2017).

The response of Nord Stream was initially to seek corporate restructuring mechanisms to dodge the EC's oversight (Goldthau & Sitter, 2020, p. 121). After the Directive was passed, NS2 AG denounced the new amendment discriminating against the NS2 project. It brought actions to the General Court of the EU against it, but the case was not admitted (General Court of the EU, 2020). Arbitration for breaches of the Energy Charter Treaty was also sought. This included breaches of fair and equitable treatment; unreasonable or discriminatory measures; indirect expropriation, among others (Energy Charter Treaty, 2021).

We consider that the NS2 project is clearly securitised, as the concerns about it led the EC to an intent to stop the project through the amendment of the 2009 Directive. Following this logic, the 2019 Directive fits the “extraordinary measures” definition by Szulecki and Heinrich (2018) and Salter (2010) who defend that this concept should include policy changes within the normal legislative process, as is the case here.

It is not just a market strategy that the EC follows, but a security one. Instead of enforcing the law or making the project comply with it, the law is modified so that it affects this single project. Market regulation is used here selectively, as also happened in 2009 when the Third Energy Package introduced the “Gazprom clause” to prevent Russia's state company Gazprom from acquiring EU gas transmission systems (Goldthau and Sitter, 2020, p. 120).

These securitising moves would allow the EC to gain control over aspects that are traditionally in the hands of the MSs or the Council (Hofmann and Staeger, 2019, p. 327). This is true in the case that occupies us, as in the 2019 Directive, the EC retained the role of ruling on exemptions from TEP (Goldthau and Sitter, 2020, p. 121).

The audience: The European Parliament

Our analysis shows that securitisation has increasingly been accepted through time in the EP, which we consider has been the audience of the EC's securitisation discourse. We have found numerous direct references to Russia as a threat in different debates, however, not always linked to energy security. The number of such references has increased over time. Russia is described as an intimidating neighbour that recurs to political manipulation, cyberattacks, hybrid war, or military assertivity.

Regarding Nord Stream, there was initially a recurring debate on political vs. commercial aspects of the NS2 project. However, soon the political view became prevalent. References like "threat", "weapon", "geopolitical tool", "Russian political project" are increasingly used and Gazprom, a state-owned company, is very often assimilated to Russia or to Putin, or seen as a Russian foreign affairs instrument. References to Russian "blackmail" are also relatively frequent.

However, one can argue that these are individual MPs' views, and not the EP's as a unitary actor. In this respect, there are some EP documents that can help us state without a doubt that the EP has accepted the securitisation of both energy security and the NS2 project. "Energy as a tool of foreign policy of authoritarian states, in particular Russia", a study requested by the EP published in April 2018, is the one that most clearly shows the EP's securitised stand. This study focuses mainly on Russia and evaluates how it uses its energy exports as a tool of foreign policy leverage. Its conclusions are clear: *"Most energy-rich authoritarian states use their energy wealth to ensure regime survival. But, more than others, Russia uses its energy wealth as well to protect and promote its interests in its 'near abroad' and to make its geopolitical influence felt further afield, including in Europe. It uses gas supplies to punish and to reward, affecting both transit states and end-consumers"* (EP, 2018c, p. 1).

In the light of the content of this document and the aforementioned references to Russian geopolitical strategies, we can affirm that the securitisation process has culminated with the EP's acceptance of Russia and NS2 as a threat.

Sub-conclusion

An incremental process of securitisation initiated by Poland and later led by the EC and acknowledged by the EP has been demonstrated through the analysis of relevant policy documents and parliamentary debates. According to our findings, there is a progressive tendency to acknowledge a threat constituted by the Russian use of energy as a tool against European geopolitical interests. Particularly, the Nord Stream project is identified as a means for Russian political leverage over Europe. As a response, the EC has used its legislative initiative to design a targeted directive against Nord Stream interests, Directive (EU) 2019/692.

It is essential to keep this securitised context in mind when analysing lobbying strategies. It is our hypothesis that this context will move lobbying practices to the MS arena. We will look into this in the next chapter.

Hypothesis 2: National attitudes towards the NS2 have impacted the lobbying practices of interests groups

The next section seeks to analyse how national interests can have affected the lobbying practices of involved interest groups. The general approach will draw on the routes proposed by Greenwood to understand if these national interests can have affected interest groups to either choose the national or the Brussels route (Greenwood, 2017). Additionally, Michalowitz's idea that the degree of conflict and type of interests matter for how interest groups can exert influence will also be implemented (Michalowitz, 2007). Therefore, the project works with the assumption that interest groups choose their strategies depending on where they have the best possibilities of exerting influence.

The section will focus on analysing the interests of Poland and Germany since they are some of the MSs that have been most explicit about their attitudes regarding the NS2 and the Directive. Aspects about the interests of the US as well as their threats to sanction the involved parties will also be included to understand if their national interests might have impacted the lobbying practices as well.

Poland

Poland seems to be the MS that will be facing the biggest loss when the NS2 is constructed, and it is, therefore, also expected that they are one of its biggest critics. Poland along with Ukraine, Slovakia and the Czech Republic are currently the main transit countries for Russian gas and, in 2020, Poland earned around 4 billion dollars on re-exporting the Russian gas to other parts of the EU. It is expected that when the NS2 is finished, Poland will lose around 18 % of this income due to large parts of the natural gas being redirected through the NS2 (Sziklai et al., 2020, p. 10). The NS2 would, therefore, make Germany a more attractive transit country for many of the Western European states which would not have to pay the same amount of transit gas surcharges. The NS2 will not only be in the interests of Germany

and Russia but also the Western European gas importers such as France. In turn, this threatens Poland's importance in the European energy sector, while the NS2 makes Germany a huge competitor in the surge for being the largest exporter of Russian gas in the EU (Sydoruk et al., 2019).

In general, the discourse of the Polish government is one of unity and led by the Polish party Right and Justice who has strong anti-Russian rhetoric that aims at reducing Russian influence in the EU. In 2017, 63% of Poland's natural gas consumption was imported from Russia. Therefore, Poland has focused on trying to diversify this consumption by making deals with the US, Qatar, and Norway (Sydoruk et al., 2019, p. 473). To counter the construction of the NS2, Poland along with seven other EU leaders signed a letter in 2016 warning that the NS2 would generate "*potentially destabilising geopolitical consequences*" (Sytas, 2016). A statement that was later backed by the European Policy Strategy Centre and argued that the NS2 "*from a common EU perspective, is a project with neither economic rationale nor political backing*" (EPSC, 2016).

The general attitude from Poland has been unified with the President, Prime Minister and Sejm, the Polish two-chamber parliament, agreeing that the EU needs to block the NS2. This is why in general there has been a high amount of support to the Directive among Polish actors (Sydoruk et al., 2019, p. 472).

For Poland, it seems that much of the effort has been focused on trying to haul the construction, where one focal point has been to rush the Directive through the legislative process to make sure that the NS2 would be subject to the Directive. They have also tried to haul the NS2 by fining Gazprom and the other involved parties nearly eight billion dollars, for forming an illegal partnership (Nissimov, 2020).

Polish influence on lobbying practices

This consensus between the various Polish actors might have had an impact on which lobbying practices have been utilised by the various interest groups, where a strong unity within the state would argue that the national route would seem unnecessary for interest groups.

When analysing the feedback in the consultation regarding the proposal for the Directive, it seems that the European route has been the primary route chosen by the interest groups where about a third of the responses were from Polish actors. All these responses support the proposal and for instance, the NGO Warsaw Institute, argues that the amendment should not have a “*long vacatio legis*”, meaning that the Directive should enter into force as quickly as possible to ensure that current projects under consideration (such as NS2) will not escape the regulations (Warsaw Institute Foundation, 2018).

Greenwood argues that the national route would normally seem to be the safest approach since it provides a “done and tested approach” (Greenwood, 2017). But Poland’s national interests have impacted the lobbying practices because they have aimed at ensuring direct influence in the EU by taking the European route, where Poland’s special position as a transit country has been important in trying to push the amendment quickly through the legislative process. This point can be further emphasised by applying the framework by Michalowitz (2007) who argues that the degree of conflict between decision-makers is important when interest groups try to exert influence. With a low degree of conflict in Poland, interest groups have a higher potential for exerting influence, but lower possibilities for creating policy change (Ibid.). The interests of the Polish decision-makers seem to match the interests of gas interest groups which therefore has impacted their practices to focus on the Brussels route.

It is important to acknowledge that MSs serve a special position regarding interest representation, because they are both considered objects and subjects of lobbying practices, meaning that they are both considered as channels of influence and participants (Greenwood, 2017, p. 27-28). Since Poland has great interests in the sector because the NS2 can severely

decline the Polish export capacity (Sydoruk et. al.2019, p.474). It is possible that the interest groups lobbying practices have been influenced by the Polish government who has used the interest groups to lobby in the EU since they have technical knowledge regarding the gas sector that politicians usually do not have. And thereby have cooperated with the Polish government on putting pressure on the decision-making process in the EU, as the Corporate Observatory Europe argues “*some MSs have proactively reached out to corporate lobbies*” (Corporate Observatory Europe, 2019).

Germany

Germany's interests are challenged by having to weigh national economic interests, green transition and foreign relations. As aforementioned, the NS2 has the possibility of strengthening the German economy by making Germany one of the EU's biggest re-exporters of natural gas, because they will receive cheap LNG directly from Russia and bypass Poland, Slovakia, and Ukraine as transit countries (Sziklai et al., 2020, p. 9). As the Netherlands is scaling back its gas production, the EU needs to import more gas from third-party sources, such as Russia. The NS2 could suggest that Germany is using this opportunity to pursue its interests and increasing its position as an important gas transit country in the EU, which for instance challenges the Polish position (Wettengel, 2021). The German interests are based around the two German gas companies Uniper and Wintershall who have invested a great amount of money in the project and are looking forward to earning large revenues if it is completed (ibid.).

The German government tried to argue that the NS2 was a purely economic project and tried to distance themselves from any decision regarding it by relying on German law. But this was neither accepted by the EC or several other MSs plus the US. This has forced Chancellor Merkel to take a stand on it, where she acknowledged that she supports the NS2 (Westphal, 2021, p. 2).

Germany has historically been in favour of solutions at the EU level and when Chancellor Merkel at a plenary session in the EP had to present the programme for the upcoming German presidency, she emphasised the importance of solidarity within the EU and argued that “*Germany is prepared to show extraordinary solidarity*” (EP, 2020). When met with criticism from for instance Poland, about Germany not showing solidarity, Germany was forced to consider their options as the NS2 can potentially split the EU which goes against the German interest of energy solidarity within the EU. The German relations with Russia have also been met with scepticism from the US who has put pressure on Germany to stop their support for the project and argue that any reliance on Russia would threaten the energy security within the EU. This perception by the US has led to the imposition of sanctions on the involved actors, which Germany must take into consideration as well.

Finally, Germany has launched the *Energiewende*, a plan for how Germany should transition their energy supplies which includes shutting down its nuclear power plants and phasing out the use of coal to meet its 2030 reduction targets (Wettengel, 2021). Germany has therefore needed to find alternative sources to replace these energy sources and the government has argued that the NS2 could help Germany reach their reduction targets (Ibid.). A standpoint there has been much debate about in Germany where for instance the Greens Party has questioned how this aligns with the decarbonisation targets.

German influence on lobbying practices

With the special process that the gas amendment has had in the EU where the EC did not include businesses involved in the process before they published their proposal for the amendment, interest groups were forced to find other channels of influence. These could for instance include the help from MS to block the proposal in the Council or MEPs to reject it in the EP. It seems that the interest groups in favour of the NS2 would have to lobby indirectly through Germany by taking the national route. In this case, the German national interests have been important as the interest groups would have to adopt these.

The attitudes in Germany have primarily been positive towards the NS2 but not as unified as in Poland. Some political parties as well as the media coverage have been far more negative towards the project (Heinrich, 2018, p. 75). These have criticised the NS2 for the environmental risks and argued for it to be “*a political project meant to exert pressure on transit countries*” (ibid.). In order to achieve support for the project, interest groups had to convince the media and politicians that it was a project that would benefit the green transition and simultaneously not be a harm to the environment if they wanted support from Germany in the Council. A matter that NS 2 AG tried to solve with a report arguing that a shift would benefit climate protection by reducing the CO₂ emissions from coal (Nord Stream 2 AG, 2016).

The lobbying practices of those interest groups who were in favour of the NS2, therefore, had to adapt to the German interests as they entered an area with some degree of conflict between the involved actors. Firstly, they had to convince the Government that the pipeline would benefit the Energiewende. An advantage for the interest groups was that they were not trying to achieve directional influence in Germany because there was mainly support for the project; instead, they had to exert technical influence to convince the German government via the national route to support their case in the Council. Secondly, they had to balance Germany's foreign policy interests by arguing that it would not harm Germany's neighbours. Here NS2 AG argued that the EU would need to import more gas in the future, and therefore, the NS2 would not harm neighbours such as Poland, but instead, it would cover some of the additional demand expected in five years (Heinrich, 2018, p. 76). This approach might have proven to be successful as they gained support from the German Government who tried to block the proposal for the Directive in the Council Working Group on Energy (Corporate Europe Observatory, 2019).

The United States of America

The US interests regarding the NS2 can best be summarised in two issues: firstly, the US argues that it is a matter of European and US security interests. This is due to closer ties between Russia and the EU and increased dependency on Russian gas would weaken European energy security, and because the money Russia gains from the NS2 could be used against the US (Cruz, 2021). As US Secretary of State, Anthony Blinken stated, the NS2 is a *“geopolitical project intended to divide Europe and weaken European energy security”* (Blinken, 2021). The construction of the NS2 also came at a time where the EU and the Obama administration had imposed sanctions on Russia. In the energy sector, this was intensified under the Trump administration that continued to sanction Russia and other energy-rich states. Blinken further argued there needs to be a shared attitude between the EU and the US towards authoritarian regimes. This is due to the US’ fear that increased European dependence on Russia would make the MSs more hesitant on sanctioning Russia (Westphal, 2021, p. 2). The US has been attempting to stop NS2 through sanctions. Therefore, they have targeted involved companies such as Gazprom and threatened to sanction European companies as well. These sanctions have had some impact so far, as they have been able to halt the construction for more than a year (ibid.).

The second issue relates to the US intention of becoming one of the EU’s main contributors to natural gas. Since the US lifted their export ban of crude oil in 2015 the export of oil has increased rapidly this has also increased the production of natural gas as a by-product (ibid.). Therefore, the US is hoping to become a larger actor on the European energy scene as they seek to expand their presence in the European market. But cheap Russian gas challenges this position and the completion of the NS2 would give the US more competition on the market. Therefore, they have argued that the EU should import LNG from the US instead of Russia (Siddi, 2019, p. 551). The Trump-Juncker agreement from 2018 is an important deal in the gas sector. As it has meant a steep increase in the import of LNG from the US to several EU countries which includes France, Italy, Netherlands (EC, 2020). However, Germany is

lacking on this list and as one of the World's biggest gas consumers, it would most likely be a high priority for the US to be their main supplier.

US Influence on lobbying practices

The US interests regarding the NS2 seem to have had an impact on the lobbying practices, but mostly related to those interest groups involved with the NS2, and therefore, against the Directive. Firstly, the US sanctions on the project have impacted NS 2 AG. The company has invested heavily in lobbying activities in Washington. This amount accrued to the amount of 1.69 million dollars during the first half of 2020 (Gardner, 2020). This means that US interests in the NS2 have influenced lobbyists to diversify their strategies. With the US involved in the Brussels route and the indirect lobbying through the national route not being enough, they have had to focus their efforts on negotiating with US officials to avoid sanctions.

The US meddling with the project has heightened the degree of conflict at the EU level as the sanctions have been able to haul the project. This has put interest groups in a position where time becomes important. The EC and the actors against the NS2 have tried to rush the amendment through the legislative processes to make sure that it will apply to any pipelines under construction (NS2). NS2 AG and their involved interest groups have had to work on postponing the decision-making so that the project could be finished before the amendment entered into force. This was the objective of NS2 AG. During one of the interviews, a gas lobbyist argued that they considered the delay of the EU decision-making regarding the amendment a success (Anon, 2021).

Sub-conclusion

To summarise, because the construction of the NS2 has been a highly politicised topic, the lobbying practices have been influenced by national interests in the analysed countries. A low degree of conflict in Poland has meant that the government and interest groups have cooperated through the Brussels route. Here they have tried to force the Directive through the legislative process as quickly as possible to ensure that the NS2 would have to comply with the Directive. The US goal of becoming one of the EU's main contributors of natural gas and bilateral agreements between the US and European countries such as Poland have also pressured interest groups lobbying in favour of the NS2. This was due to the sanctions of the involved gas companies as a way of hauling the construction. This has meant that the interest groups lobbying in favour of the NS2 have had to adapt to this special position by trying to haul the decision-making instead.

The special legislative procedure with no closed consultations has meant that the interest groups have had to lobby indirectly through Germany to try and block the Directive in the Council. However, they had to adapt to the interests of Germany to gain their support. As the NS2 project is economically beneficial for Germany, there was already partial support for it. However, NS2 AG also needed to make the argument that it would benefit Germany's green transition.

Hypothesis 3: An exchange of resources between institutions and influential interest groups led to the passing of Directive (EU) 2019/692

Lobbying is an important part of the democratic process as it is one of the means through which different societal stakeholders communicate with lawmakers. However, critics often regard lobbying as nothing more than a gateway for rich and powerful groups to infiltrate democratic institutions like the EU and manipulate them into creating legislation that fits their agenda. In this section, we explore the relationship between the EU and a diverse range of interest groups. We place special focus on the exchange of resources between the institution and interest group and how the institutional design and operational mechanisms of the organisation promote and encourage this form of exchange in favour of more powerful organisations. In doing so, we seek to understand whether interest groups with more resources have more influence than smaller groups, and moreover, what the ramifications of this influence mean for democratic accountability in general. For the scope of this analysis, the “resources” in question can loosely be defined as expertise, knowledge, or information that can be used to enhance the understanding of decision-makers with respect to the positionality of certain groups in the region.

The key bodies responsible for driving legislation in the EU are the EC, the EP, and the Council. These three bodies are examined separately in relation to their role in the creation of the EU Directive on the regulation of the internal market in natural gas. As this section shows, each of the three legislative branches of the EU is susceptible to some form of lobbying to some degree, the result of which is an exchange of resources between lobbyists and the institution. From its origins, the Directive was bound to create a significant political stir as it touched upon the interests of groups in sectors such as finance, politics, and the environment, to name just a few. This analysis considers the role and impact of these interest groups in the shaping of the outcome of the Directive.

The legislative process

Usually, the process starts with the EC being informed about areas for improvement, which is often brought up by relevant stakeholders in closed consultations. The EC, when being made aware of a problem or opportunity for regulation, works on a draft proposal for the legislation (Lehmann, 2009). The EC is the sole actor with the right to start this process, as is mentioned in the right to initiate (Treaty on EU, 1992). This proposal is then sent to the EP. Once the proposal arrives in the EP, the group of Presidents assigns the proposal to the responsible committee (Lehmann, 2009). This Committee continues with selecting an MEP who acts as a Rapporteur for the legislation. The Rapporteur can change the legislative proposal that was sent to the EP from the EC, which then has to be approved by the Committee and the plenary. If approved, this legislation has gotten the resolution status and the bill is sent to the Council for approval or changes. If the Council does not approve the bill, the legislation goes for a second reading back to the EP (ibid.). But in the case that the Council approves the legislation sent from the EP, then the bill is agreed upon and the bill goes into action (ibid.). The co-decision process was created for this purpose. The procedure stems from the Maastricht Treaty in 1992 and has been strengthened over the years. Nowadays, it is essential to the workings of the EU as a whole (Coen et al., 2009).

To bring the legislative process to a conclusion, the Council and the EP have to reach an agreement (ibid.). However, this process was not valid for all policy fields that the EU acts upon. This was changed with the Lisbon Treaty. Among the reforms was a change of which policy fields fall in the scope of this procedure. This scope now entails all EU competencies. Policy fields that have been impacted by the reform include areas such as agriculture or the regional development field which are highly lobbied areas (ibid.).

Therefore, if the EP and Council cannot agree after two readings (co-decision), the proposal is brought to the Conciliation Committee (Dionigi, 2017). The Conciliation Committee is made up of an equal number of representatives from the Council and the EP (Coen et al.,

2009). EC representatives are also there to facilitate between the two negotiating parties (ibid.). The agreed-on text is then sent to the Council and the EP for a third reading (ibid.).

The European Commission

The EC is the only institutional body mandated with the initiation of legislation. This makes it an interesting place to begin our analysis. The Agenda-Setting theory is a useful tool for articulating the process by which an issue becomes part of the EU's agenda, and thereby, part of the legislation. Coen et al. (2021) outline that there are primarily two pathways through which an issue becomes part of the EU's political agenda, which are endogenous and exogenous. With the endogenous process, an issue reaches the EU's political agenda through well-established channels within the organisation, such as the way the EC sets the legislative agenda for the EP and Council. From the exogenous route, which is of greater interest for this analysis, an issue forms part of the organisation's agenda as a result of external events or actors that fall outside the defined hierarchy of the EU.

As the genesis of all legislation in the EU, the EC is a natural magnet for lobbyists and interest groups seeking to place their affairs at the top of the EU's political agenda. Coen et al. (2021) highlight three ways through which the EC goes about stakeholder engagement in the early phase of drafting legislative proposals for the EP and Council which are: closed consultations, open consultations, and symposiums. Interest groups participating in each of these three mediums wield varying degrees of influence on the outcome of the EC's decisions due to the different types of information gathered at each step.

i) Closed Consultations

As the name suggests, these consultations are held with a limited number of stakeholders including so-called "expert groups" as well as actors invited specifically by the relevant director-general responsible for the policy area in question. The reason why closed

consultations are so valuable to the EC is because of the high level of professional expertise provided by the actors and groups involved in these consultations.

ii) Open Consultations

Although open consultations are generally open to the wider community, the degree to which any interest group is able to actively participate in such consultation is dependent on the competences and expertise held by each organisation (Coen et al. 2021). In other words, the more expertise an interest group possesses, the more it is able to influence policy through open consultations.

iii) Symposiums/Open conferences

These events are designed primarily to present policy proposals to the general public when such proposals are almost at their final stage. The aim is not so much to gain further input on the main content of the proposal but rather to gauge the receptiveness of audiences to a specific policy proposal.

When it comes to Directive, there are several things to consider. Firstly, the Directive is an amendment to a pre-existing directive, Directive 2009, which implies that the EC felt that there was a need to revisit some aspects of the previous directive. Secondly, it is generally accepted that the primary motive behind the Directive was to curtail the development of NS2, which would increase Europe's dependence on Russian gas, even though the actual wording of the Directive does not single out Russia or NS2. Bearing all of this in mind, it is important to analyse the EU's consultations with relevant stakeholders to get a sense of not only of who these stakeholders and interest group are, but more importantly, to know which groups lent their support to the Directive and which groups did not, and the reasons associated with each stance.

During our research, we were able to obtain feedback documentation from over thirty different organisations and interest groups from all over Europe with each detailing their views and position on the Directive. Of the open consultations, respondents came from nine countries, with Poland leading the flock with eleven submissions followed by Belgium and Germany with six and four submissions, respectively. It was interesting to note that although

the submissions were made by independent organisations and interest groups within each country, groups within a single country all mirrored each other's position with respect to the Directive, give or take. The overwhelming majority of responses in favour of the proposed directive came from respondents in Poland, and equally so, almost all other respondents opposed the Directive, citing a series of concerns. Given that the largest European stakeholders in the NS2 are Germany, the Netherlands, and France respectively, it is interesting to analyse the precise nature of some of the respondents from these countries.

From Germany, FNB Gas — an association representing transmission system operators — stated its objection to the EC's proposal highlighting the need for a thorough impact assessment which in the association's view, was not something that had been sufficiently done (Vereinigung der Fernleitungsnetzbetreiber Gas e.V., 2018). These sentiments were also echoed by GRTgaz, a French transmissions systems operator with interests in various European countries (GRTgaz, 2018). Dutch gas company Gasunie also raised the need for an impact assessment and added that the Directive raises the spectre of uncertainty on legal and commercial issues (N.V Nederlandse Gasunie, 2018). As already mentioned, respondents from Poland all gave their support for the Directive, with the Polish Oil & Gas Company (PGNiG) stating that it believes the Directive will strengthen competition in the market and contribute positively towards energy security in the region (PGNiG, 2018). This response did not raise the same concerns regarding the inadequacies of the impact assessment done by the EC but instead alluded to the many benefits that the Directive would provide for European countries. Despite this divergence in opinion among the different respondents, the Directive was eventually adopted by the EP and the Council, and we will now examine both in further detail.

The European Parliament

The EP serves as an important channel for lobbyists and interest groups to voice their positions and wishes to the institution. When lobbying the EU, the importance of having the right information cannot be overstated. From our interview with Florent Marcellesi, a former MEP from Spain, we learned that in general, most MEPs lack the capacity to acquire relevant policy information on their own due to a myriad of factors ranging from understaffing to other demands on their time as well (Marcellesi, 2021, interview). Marcellesi also pointed out that in his view, the EC is generally better equipped for the purposes of information gathering than the EP. This deficit on the part of MEPs makes them especially susceptible to lobbying from interest groups with well-organised information channels. Moreover, MEPs are elected to the EP by their constituents at home, which means that lobbyists who touch upon the core interests of a member's constituent interests would likely stand a better chance at successfully lobbying that MEP.

Chalmers (2013) outlines some of the key elements that make an interest group effective at successfully lobbying the EP using the policy network framework. Firstly, there is a great demand for specialised technical policy information in a variety of market-oriented fields. This means that interest groups that are able to provide this type of information are generally more valuable to MEPs than those that lack the same capacity. Private interest groups like companies and professional organisations generally outperform other groups such as trade unions on this measure (Chalmers, 2013). A typical feature of such interest groups is the fact that they possess resources like finances and personnel in large quantities. Secondly, within a network, information is distributed unevenly depending on the strength of the relationship between individual members of the network. For this reason, interest groups with numerous personnel within the same network are able to leverage this resource to extract more information out of the network. Decision-makers will tend to trust information if it comes from sources they consider to be reliable as a result of their proven track record. In an age of information overload, the value of trustworthy sources of information increases exponentially. This also favours interest groups that are able to position themselves close to

the power centres of Brussels and Strasbourg, where many of the key actors in the EP would be stationed.

When Directive first reached the EP, it was assigned to the Committee on Industry, Research, and Energy and its rapporteur was Jerzy Buzek, a former Prime Minister of Poland (EP, 2018). The fact that there was such a disproportionately high number of Polish interest groups who responded in favour of the Directive in the open consultation is perhaps linked to the fact that the Directive had such an eminent political figure from Poland as its rapporteur. As rapporteur, Buzek would have undoubtedly leveraged his own networks to advance his position on the Directive. In the final committee vote, overwhelming support for the Directive came from the EPP and the Socialists and Democrats party (S&D) (EP, 2018b). All in all, the committee vote came up to forty-one members in favour, thirteen against, and nine abstentions. In its response to the EC's proposal, the committee also proposed new wording to the legislative text to do with derogations. The committee members added the wording that the Directive is "*applicable to pipelines [...] that have a significant impact on the Union's overall security of supply and energy independence*" (EP, 2018b). Furthermore, it states a bit further on in the same amendment that it provides "*necessary reflection of strategic interests of all Member States and the Union's overall security and energy independence*", which can be seen as a jab against NS2 (ibid.). Polskie Górnictwo Naftowe i Gazownictwo S.A. (PGNiG) wrote in their feedback on the proposal published by the EC that the "*new proposal for recast of Directive 2009/73 will contribute to increased energy security and competition on European gas market*" (PGNiG, 2018).

Amendment 2 (4) refers to the changes relating to the already existing pipelines from and to third countries. It clarifies this process as was requested in many of the feedback letters by pointing out that completed pipelines before the adoption of the proposal are taken into account. Pipelines that are being built and will be finished after the date of the adoption can be given a derogation if there is a benefit for the EU in terms of competition, functioning and effectiveness of the internal energy market and the security of supply. MSs are able to make derogations, however, they can only do this after the recommendation of the EC (ibid.). Draft

derogations need to include a “*detailed analysis of the effect of the derogation [...] on the internal market in natural gas and the security of supply*” and following that, the EC assesses the project and gives a recommendation (EP, 2018b). This could be seen as soft law since it is merely a recommendation. However, the MS responsible is not allowed to grant a derogation before the EC has submitted a recommendation, which could result in the EC buying time to potentially end the project.

Furthermore, regarding Amendment 3 (5), there is a criticism that if the Directive is also applicable to territorial waters of the MSs, it poses a potential violation of the United Nations Convention on the Law of the Sea (UNCLOS), as the Austrian Federal Economic Chamber, Eurogas and most other anti-directive feedback accuse. Therefore, this could lead to a potential legal issue. In relation to the territorial waters and exclusive economic zones, the new Directive included the additional phrase: “*in accordance with the United Nations Conventions on the Law of the Sea (UNCLOS)*” (ibid.). This leaves the amendment open for interpretation due to different ways the EC’s legal services and the Council’s legal services interpreted the legal situation, as we were told by a gas lobbyist (Anon, 2021). The Council’s legal service interpreted it as violating the UNCLOS, and thereby creating a legal loophole for the NS2 to take advantage of (EP, 2018b).

A further win for the pro-Directive organisations is the time limit for derogations. Amendment 12 changes art. 1 §1 through the inclusion of a time limit of 5 years for exemptions for pipelines that are being finished after the 1st of January 2019 (EP, 2018b). This is even more ambitious than many feedback letters have suggested. PGNiG suggested in their feedback a time limit of 10 years, with many others (PKN Orlen, The Polish Confederation Lewiatan, Towarzystwo Obrotu Energią, The Warsaw Institute) solely supporting a time limit but without specifying its length (PGNiG, 2018; PKN Orlen, 2018; The Polish Confederation Lewiatan, 2018; Towarzystwo Obrotu Energią, 2018; The Warsaw Institute, 2018).

Amendments in agreement with the pro-Directive feedback continue to be visible in the changes to the EC's proposal. The national regulatory authorities (NRA) decision-making procedure proposal by the EC is extended by not only informing the NRA of the MS where the infrastructure is located (EC proposal) but also to consult MS where the market is "*likely to be affected*" (EP, 2018b). This NRA decision-making approach with the inclusion of consultations with affected nations was also suggested by PGNiG and gives the EC significantly more power since the EC has to agree with pipeline projects going in or out of the EU jurisdiction (PGNiG, 2018). The EC must, following amendment 16, also consider "*restrictive measures, such as economic sanctions, imposed on that third country*" which is an addition from the EP (2018b). This seems to be an extra cautionary wording for future deals with Russia considering the recent history with Russia.

The last amendment (22) is not surprising when considering the speed at which this Directive went through the legislative process. Amendment 22 seeks to shorten the time until when MS must implement this Directive. The EC's proposal foresaw an implementation period of 1 year after the date of entry into force, whereas the amended text speeds this up to three months after the date of entry into force (ibid.).

This sped-up legislative procedure could also be connected with some potential violations of EU better regulation guidelines as some of the feedback letters declare (Austrian Federal Economic Chamber, 2018; Belgian Gas Federation, 2018; Business Europe, Confederation of Industry of the Czech Republic, 2018). The Better regulation guidelines include a thorough impact assessment of the Directive in question as well as a stakeholder consultation period prior to the publishing of legislative proposals (EC, 2021). However, the EC argues that the impact assessment and the stakeholder consultations from the original Directive in 2009 are still valid, and therefore, a new impact assessment and period for consultations are not necessary (EC, 2017). This is supported by the feedback letters from the Central European Energy Partners (CEEP, 2018) and PGNiG (2018). The EC's reasoning that a filling of a legal void is needed since the 2009 Directive bears loopholes is also argued upon. Die Fernleitungsnetzbetreiber (2018) argues that the proposal for amending the Directive does not

fill any gaps, and moreover, security of supply issues have already been addressed by reformed Security of Supply Regulation 2017/1938.

As already mentioned, MEPs are politicians at the core of everything, and as such, they are answerable to their constituents and their voters. Chalmers (2013) points out that a network is strengthened through acts of reciprocity. In other words, there is an element of a “you scratch my back, I scratch yours” type of scenario in the way policy networks operate. Therefore, it should come as no surprise that interest groups belonging to an MEP’s constituency would have significant lobbying leverage as they would be able to demonstrate their usefulness to the MEP through such means as providing policy advice that would help the MEP politically vis-à-vis their constituents.

The European Council

Alongside the EP, the Council is a key legislative body in EU decision-making. Like the EP, the Council receives its mandate from the EC, and can only ever legislate using proposals initiated by the EC. No new legislation can proceed without the approval of the Council (Corporate Europe Observatory, 2017). Due to the structure of the Council, it is a particular target for interest groups seeking to pursue lobbying at the national level.

Bouwen (2002) uses the theory of access to elaborate that the cornerstone of the relationship between the EU and private organisations is interdependency. In other words, private organisations need the EU just as much as the EU needs them. This symbiotic relationship can be explained using the resource dependence perspective, which alludes to the fact the EU needs resources provided by interest groups as much as these interest groups need resources from the EU. Using the theory of access paradigm, Bouwen (2002) explains that the primary goal of interest groups is to gain “access” to the EU — its people, its decision-making, its power. In exchange for this access, the EU also requires interest groups to prove their worth by providing information that can be helpful to the institution. It is this type of setting that

lays the ground for lobbying to take place. Although there are many interest groups seeking to gain access to the EU, it is not all of them that are able to do so; or at the very least, the degree of access is dependent on the value of information an interest group is able to provide.

With regards to the Council, a critical currency for access to this institution is information relating to individual MSs. This is because unlike the other two legislative bodies of the EU, national interests tend to take supreme precedence in the Council due to its intergovernmental structure. By the time a legislative proposal from the EC arrives at the Council, there is very little requirement for technical expertise related to the legislation's policy area (Bouwen, 2002). This is because the lobbying procedure in the EC would have already sourced this type of information. The point of departure for debate in the Council, therefore, would be the national interests of the MSs.

At the first reading of the Directive in the Council, the Directive was approved by all MSs except for one country which chose to abstain from the vote: Bulgaria (Council of the EU, 2019). As already mentioned, the Directive is largely perceived to be a device aimed at curtailing the development of the NS2 pipeline. Bulgaria's abstention from the Council vote comes as no surprise because the country's government has come out in support of the pipeline, with Bulgarian Prime Minister Boiko Borisov even openly stating that he would defend NS2 because it is beneficial to his country (Reuters, 2015). This statement by the Prime Minister was made a few years before the Directive was introduced, and it is evident that at least some of its provisions run contrary to the national interests of Bulgaria, hence its abstention from the vote.

Bouwen (2002) points out that in general, private companies tend to have greater access to the Council and the EC. However, with the Council, it is private companies from the individual MSs that gain the most access to the Council. Other interest groups, such as national associations, also have more access to the Council compared to the other two legislative bodies. Associations with a wider European mandate generally have more access to the EC, whose mandate tends to cover the wider continent. Unlike with the EC and the EP,

whose deliberations and consultations are generally made public, the Council has often faced criticism for not having enough transparency.

Sub-Conclusion

Lobbying practices differ considerably across the three legislative bodies of the EU. This is largely due to the diverse information needs of each of the three bodies in the legislative process. Whilst lobbying and interest group representation remain an integral part of the democratic framework of how the EU functions, the degree of influence held by powerful interest groups tends to supersede that of smaller, less powerful groups. The EC, as the origin of all legislation, is a target for interest groups with highly specialised technical expertise. The agenda-setting theory explains the interplay between interest groups lobbying the EC and how this relationship results in some issues surfacing to the top of the EC's agenda. Meanwhile, the EP's open and representative structure of operation offers a unique entry point for diverse interest groups to lobby their positions through the different MEPs. Information is circulated around different networks and the strength of the network determines its usefulness and effectiveness at lobbying. At a time when information is plentifully available, sources that can provide expertise that is both trustworthy and relevant are worth their weight in gold. The Council is the institution where each MSs' national interests tend to take the foreground. For this reason, interest groups from the MSs, as well as those that can demonstrate usefulness in relation to the core interests of each respective MS, are the most effective. The theory of access explains how the proverbial currency required to gain access to the institution is information that is relevant to the MS being lobbied. In this analysis of the legislative process behind Directive, we uncover how information is used as an essential tool by interest groups seeking to lobby the EU. Equally so, the EU's institutional design makes it especially susceptible and open to this type of relationship, which often works in the favour of powerful interest groups that can provide more deliverables than smaller groups.

Hypothesis 4: In the creation of Directive (EU) 2019/692, interest groups that lobbied primarily in the agenda-setting phase were more successful than those that focused on the formulation and decision-making phases of the policy cycle

One might wonder where the power is located for the lobbyists to effect the legislative process. In this part of the paper, we hypothesise that the EC is more prone to influence due to its legislative initiative. However, to look at this in more detail, we use the policy cycle theoretical framework.

To understand where the openings for influencing are, one has to understand the openings but also the limits of the institutional structure and the relating rules. Institutional structure of the EC is very different compared to that of the EP. Formal appointments with lobbyists at the EC have stricter rules and are more transparent. A gas lobby representative has mentioned that when an appointment is made with the EC, a staff member will pick the lobbyist up at the front door and guide the lobbyist to the right office. Therefore, the lobbyist is never alone in the building. Besides that, the lobbyist is registered for the visit in the transparency register. Another formal way to influence the EC is through writing position papers and consultations on EC legislation drafts. An additional but more informal way is the contact with the commissioners after events such as panel discussions. At these events, lobbyists can usually talk to them for a couple of minutes in an informal setting, which is popular as our contact in the gas lobby explained.

Agenda-setting phase

The agenda-setting phase is especially interesting when considering the influence of lobbyists. This phase is prior to the creation of the proposal by the EC. Interest groups can act in several ways on this level.

One possible strategy could be a grassroots-oriented approach that focuses on pressuring through social groups or media (also called bottom-up approach) (Jann and Wegrich, 2006). This strategy could lead to significant enough pressure to lead to certain legislative proposals. However, the EC itself might also feel the need to regulate certain things, and therefore, start researching certain areas of potential new legislation (also called the top-down approach). In either case, interest groups can influence the legislation through contact and feedback to the EC.

A pluralist view would in this situation argue that interest groups that are impacted by legislation to a higher extent are more prone to lobby. This might explain the abstention of green NGOs from the consultations with the EC. The gas lobby is much stronger impacted by the legislation.

Therefore, a great number of gas interest groups are represented. Initial research of EU interest group representation has solely focused on the EC. However, this changed with the Lisbon Treaty of 2009. The Treaty empowered the EP and gave it more power as a co-legislator with the Council. Therefore, as Dionigi (2017, p.2) mentions, *“the EP has become an important lobbying venue for anyone seeking to influence EU legislation”*.

According to a representative from the gas lobby, the institutional focus of the lobbying efforts varies (Anon, 2021). This depends on the stage of the legislation, as mentioned above, but also on the political climate in the institutions. Interest groups try to determine the political will of the EC and act accordingly. Depending on the closeness of the EC's position to that of the interest group, they decide if lobbying is necessary at this stage. If the positions

are close, lobbying efforts are more focused on the EP, and therefore, little attention is given to the agenda-setting phase. However, if the positions of the EC and the interest group part, then efforts are focused already intensely on the EC.

This is done by providing technical support. Coen et al. (2009: 20) have explained that “*the under-resourced nature of the European Commission*” leads to weaknesses in technicalities that the EC must overcome when drafting a legislative proposal (ibid.). This gives interest groups with specialisations in the area an opening to lobby the responsible EC officers. Previously, scholars advised lobbyists to focus on EC desk officers since these would have significant power on further revisions and, due to the fact that roughly 80% of the first draft is taken into the final legislation, the most effective and efficient way to influence was on the EC level (Lehmann, 2009). Many scholars (Gardner 1991, Nonon and Clamen 1991, Bouwen 2009) have mentioned that the agenda-setting phase is seen as a strategy called *early lobbying*. As Coen et al. (2009, p. 25) further describe: “[I]t is common knowledge among lobbyists that as long as no formal documents are produced during the policy formulation stage, changes to the legislative proposals can be made much more easily”.

Therefore, it is still regarded as the most important phase to lobby. However, many more controversial amendments are added by the EP or the Council in the following readings. Therefore, depending on the amendments needed to fulfil the interests of the IG, the strategies vary.

Better regulation guidelines give stakeholders influence

It is essential for the interest groups to take advantage of the better regulation guidelines if the organisation’s position is different from the EC’s. When considering the case of the selected Directive, the process does not seem to follow the better regulation guidelines that the EC usually follows. These rules give stakeholders the opportunity to consult the EC before a draft paper has been written. Therefore, we can read in many consultations that the EC is not

proceeding in the matter as it is supposed to, making it more difficult for stakeholders to follow the usual process (e.g. PGNiG, 2018). This is usually done together with an impact assessment that is also named in the better regulation guideline, which is another reason why the EC is highly criticised by many consultations in connection with the Directive (Business Europe, 2018). Instead, it seems that the EC found the application of only open consultations in combination with a prior impact assessment that was made for the 2009 Directive as satisfactory enough in relation to these guidelines. The Austrian Federal Economic Chamber (2018) criticised this practice since the changes made with the Directive “*change the regulatory framework of import and export pipelines substantially*”, which the EC argued was merely the filling of a legal void.

Policy formulation and policy decision-making phases

After the agenda-setting phase, the policy formulation and policy decision-making phase follow. The policy formulation starts with the EC drafting a proposal for legislation that is being opened for public consultations, where interest groups have the opportunity to give their feedback on the draft bill. The policy decision-making phase is also entered at this point and the EP receives the proposal.

Due to the process that policy has to go through in the EU to be adopted, it is required of the EP to assign a Rapporteur, who changes the proposal or makes amendments if needed, before it is voted on by the Committee. Lobbying efforts are also visible in this phase of the policy cycle. Due to the power that comes with the position of being the Rapporteur on the legislation, interest groups are lobbying the responsible committee to get a Rapporteur assigned that favours their views (Dionigi, 2017).

In the case of the Directive, an MEP from the EPP was selected. A gas lobbyist has explained that an EPP MEP would usually be more open to the view of the gas lobby and e.g. a green

MEP would favour the environmental NGOs. However, this does not seem to be a standard environmental or energy legislation. This legislation deals with the field of energy but is also about geopolitical powerplays for some actors, whereas other actors solely see it as an energy concern. This results in miscommunications due to different understandings of the bill. In this case, the assigned Rapporteur is a member of the EPP, however a Polish MEP. Polish feedback to the EC's proposal is generally supportive of the legislation. The selection of Jerzy Buzek (EPP) from Poland might seem like a compromise between the actors but it is a win for the pro-legislation camp since Buzek seems to understand it in the light of competition and geopolitical strategy (EP, 2018b).

Green NGOs might have not submitted feedback to the proposal due to resource constraints, and therefore, have focused their efforts on other policies that are not necessarily controversial issues in the realm of geopolitics. In one of the interviews conducted for this paper, a former MEP who was in the EP at the time of the Directive, stated that the Rapporteur is extremely busy meeting with interest groups (Marcellesi, 2021, interview). The positions of these interest groups do not necessarily have to be balanced. Therefore, it is not shocking that many green NGOs meet with Green MEPs, and gas interest groups, such as our contact in the gas lobby, tend to meet with EPP MEPs. That confirms the observation of Dionigi (2017: 41) that *“the degree to which decision-makers are exposed to lobbying from opposing groups matters, because (...) [d]ecision-makers subjected to one frame are more likely to take up extreme positions compared with decision-makers exposed to competing frames”*. As one can easily see, there are a lot of actors involved with getting this process completed. Therefore, there is also plenty of room for lobbyists to maneuver its interests.

The amendments Buzek and the Committee made, favour the pro-legislation camp and passed through the plenary resolutely. The Directive passed the plenary vote with 465 supporting the legislation and its changes made in the Committee, 95 voted against the legislation, and 68 abstained (EP, 2018a).

Sub-conclusion

Summing up this analysis, it becomes clear that the EC seems to be the primary target for lobbying activities for more general positions and legislation that are more under the radar of society and the media. As soon as more controversial positions are involved, interest groups' strategies should focus on the EP to change positions in this institution with the help of a favourable Rapporteur. This strategy would have relatively helped the position of the interest groups. The lack of a closed stakeholder consultation process shortened the agenda-setting phase and jumped to the formulation and decision-making phases almost immediately for external actors such as interest groups. Therefore, we reject this hypothesis, since this Directive did not follow the usual procedure for policy making and the inclusion of stakeholders.

Conclusion

The main research question sought to understand the process behind the adoption of Directive (EU) 2019/692. Our analysis of all the relevant literature and data revealed several findings. Firstly, the Directive was heavily securitised by some key actors in the legislative and political framework of the EU. The EC's decision to expedite the formulation of the Directive was in response to the urgent security threat perceived by the EU as a result of increasing Russian influence on the European energy and gas supply. The analysis on the securitisation of the Directive is done through the lens of the Copenhagen School of Security studies which places emphasis on the non-military dynamics of international security, with policy initiatives like the Directive serving as a prime illustration of such dynamics. Secondly, the national interests of stakeholder countries served as an important motive behind some of the lobbying that has taken place. This was evident in the behaviour of the national governments and interest groups from countries that had significant ties to the NS2 project, such as Poland, Germany, and the United States. Furthermore, the paper explored the relationship between interest groups and the three legislative bodies of the EU and the role of information as a lobbying tool. This was done primarily through the paradigm of the agenda-setting theory, the theory of access, and the policy network analysis. In a policy network, the influence of an interest group depends largely on the value it is able to provide to different actors in the legislative framework. Lastly, the paper also explores the impact of targeted lobbying at various stages of the policy cycle. Interest groups that are able to tailor their lobbying efforts at strategic stages of the policy cycle, depending on their goals and needs, are generally more effective than those that do not. In essence, the adoption of the Directive was a result of the lobbying of different interest groups and stakeholders pursuing their respective interests. The overriding factor argued, however, is that the securitisation of the Directive has been the primary motive from the perspective of most of the stakeholders.

Limitations

The main limitation we have encountered when approaching this project is the lack of traceability of lobbying strategies. At the EU level, lobbying activities are not comprehensively regulated. While there is no system in place at the Council, the EP and the EC have a joint voluntary register for lobbyists, which however does not grant adequate oversight of interest groups. This tool is inefficient to grant transparency, and therefore, most of the lobbying activity happens behind closed doors. Consequently, a causal relationship is difficult to establish.

Another difficulty that might limit the findings of this paper is the fact that we have used primary data in English. Parliamentary debates and Contributions to the legislative process in other languages have not been considered. This can bias the research.

Due to time-constraints, we were not able to widen our range of interviews, and therefore, had to rely on a relatively low number of contacts involved. Moreover, situational circumstances have narrowed our possibilities to observe lobbying behaviour in practice due to extensive travel restrictions, and limited our possibilities to participate in events such as panel debates. This is specifically the case with methods such as the process tracing, in which observations are the key to a stronger research.

To further strengthen this research, a quantitative approach would lead to higher validity of the findings. Resource constraints also prevented us from making large surveys and polls to gather information from an extensive number of MSs and third countries, but also interest groups, EC and EP officials relevant to the case.

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- Belgian Gas Federation.
- GAZ-SYSTEM S.A.
- GRTgaz.
- Grupa Azoty S.A.
- International Association of Oil and Gas Producers.
- KGHM Polska Miedź S.A.
- N.V Nederlandse Gasunie.
- Nord Stream 2 AG.
- Nord Stream AG.
- OMV Aktiengesellschaft.
- PKN ORLEN.
- Polish Chamber of Chemical Industry.
- Polish Confederation Lewiatan.
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