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EUROPEANIZATION OF ENERGY AND CLIMATE POLICY. THE STRUGGLE BETWEEN COMPETING IDEAS OF COORDINATING ENERGY TRANSITIONS

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STRUGGLE OVER RES SUPPORT SCHEMES IS AN EXPRESSION OF

An inherent EU
governance dilemma



Competing paradigms of
low carbon energy
transitions

Policy harmonization
requirements in the
integrated market
(regulatory harmonisation)

vs.

heterogeneity of
preferences in member
states (regulatory
diversity)

Market-driven allocation of
RES facilities across Europe
(centralised, large-scale
infrastructures, incumbents'
ownership)

vs.

Decentralized energy
transition (bottom-up,
locally rooted; citizenship,
experimentation...)

MY GUIDING QUESTION

What is the „best“ mode of coordinating energy transition policies in an integrated European energy market against the background of heterogeneous preferences and societal risk perceptions in member states?

question relates to the

longstanding [EU] **governance dilemma** to balance welfare gains from an internal market with welfare losses from overriding national peculiarities

MODES OF POLICY COORDINATION AMONG MEMBER STATES IN THE SINGLE MARKET



EU policy integration is not characterized by a uniform degree of integration, instead

- transfer of national authority to the European level substantially differs between and within policy fields
 - a turn from the intergovernmental to the supranational mode of governance particularly in competition law
 - Distinct degree of regulatory harmonisation of policies and measures as an output of intergovernmental negotiations of member states' governments
- Beside the intergovernmental and supranational mode of governance  concept of “*governance by diffusion*”

GOVERNANCE BY DIFFUSION:

“LABORATORIES OF INNOVATIONS” IN LOW CARBON TRANSITION PROCESSES

Revival of “old” idea of “laboratory federalism”:

- Decentralised jurisdictions function as “*laboratories of innovations*”
- Diverse interlinkages between decentralised jurisdictions within a multi-level system cause subsequent horizontal processes of policy learning and diffusion



innovation diffusion as complementary *mechanism of policy convergence* to a hierarchical mechanism based on (inter)governmental/state-centred negotiations

NEED FOR LABORATORIES OF INNOVATION IN LOW CARBON ENERGY TRANSITIONS

The specific nature of transition processes:

- **Complex process of socio-technical change**
 - Destabilisation of lock-in mechanisms (new actors challenging incumbent actors in the energy field)
 - Shifts in behavioural patterns
 - Need for technological, political and social innovation

- **Characterised by a great deal of uncertainty**
 - No predefined and uncontested script
 - Need for experimentation



Assumptions and **positive narrative** offered by scholars of polycentric governance:

the decentralised level provides a space to experiment with innovation

THE POLITICAL RELEVANCE OF THE CONCEPT OF “LABORATORIES OF INNOVATIONS” FOR THE EUROPEANIZATION OF THE LOW CARBON TRANSITION PROCESSES

The two paradigms attach distinct weight and value to the decentralized level's role as laboratory

- **Single energy market** as rationale for a “cost-efficient” transformation of energy system – *RISK of regulatory diversity*: harmonisation required – curbed experimentation?
- 
- A large, thick, red double-headed vertical arrow pointing both up and down, indicating a relationship or tension between the two points in the list below it.
- **Heterogeneity of preferences** – *NEED for regulatory diversity* to offer the necessary room of manoeuvre at decentralised level – Risk of single market distortions

Energy policy = very sensitive issue

- Historically evolved under national authority
 - Security of supply is high priority for every nation states and driving force of national energy policies
- 
- Result: immense diversity of energy mixes, technology preferences, risk perceptions, regulatory styles/structures and policy instruments

High potential for a dilemma situation

- 2007 Lisbon Treaty: Energy policy formally became subject of community activity
 - 2009 comprehensive energy and climate framework up to 2020 and policy package to realize internal energy market

 - 2013-2014 debate on and adoption of new post-2020 energy and climate framework
 - 2013-2014 draft/final version of the state aid guidelines
-  *Patterns of a reinforced pressure of the EC to handle the regulatory diversity with regard to RES support schemes*

THE NEW ENERGY AND CLIMATE POLICY FRAMEWORK 2020-2030

„Experience with the current 2020 framework indicates that while European and national targets can drive strong action by the Member States and growth in emerging industries they **have not always ensured market integration, cost-efficiency and undistorted competition.**“(EC-COM(2014) 15 final: 5)

Relevant changes concern:

- Target architecture
- “Strong European governance framework” = supranational pressure to harmonize national RES-support schemes

In both areas changes have been introduced

- *not for effectiveness reasons*, but for
- *core beliefs* within EU supranational institutions *regarding cost-efficiency and market compatibility*

Changes implicitly assume the **EU-level**:

- as the *adequate policy level* to efficiently steer the process and
- *to define the criteria for the instrument choice*

„SOLUTION“ OF THE GOVERNANCE DILEMMA REGARDING SUPPORT SCHEMES VIA COMPETITION LAW?

EC's *desired* mode of governance

=

Regulatory harmonization of policy instruments to support RES

↑ **restriction**

Community's political constitution and legal provisions (primary and secondary law of EU)



National authority over energy mix and structure of supply system (article 194 TFEU) and support schemes (RES-Directive)

↕ **tension (ECJ case law)**

Transfer of national authority to supranational level regarding control of market integration principles

↓ **allowance**

EC's *feasible* mode of governance

=

Indirect harmonization pressure via competition policy/law

Rationale for instrument harmonization and instrument type: regulatory diversity leads to market distortion/ market compatibility:

- Quota system/tradable green certificates (1998-2001)
- Tender/auction schemes and market premiums (since Dec. 2013/April 2014)

Rationale for (different) RES instrument preference in MS:

- Domestic interests and energy system structures
- Administrative fit (regulatory pattern and administrative traditions)
- Domestic value added

Rationale for EC intervention: to prevent trade barriers /market distortions

- **EC's state aid guidelines** define exemptions from the general prohibition of state aid: New environmental and energy state aid guidelines in April 2014 – gradual replacement of FIT by competitive bidding procedures (auctions) + market premiums
- **Infringement proceedings:** e.g. formal state aid investigations by the EC against German RES-support scheme in Dec. 2013)

ASSESSMENT OF STATE AID GUIDELINES

Compulsory lever to enforce regulatory harmonisation of national support schemes

- definition of a state-aid-conform RES support schemes - auctions schemes (guidelines 3.3.1.1. (124)-(128)) **and**
- the EC's preference (and pressure via notification negotiations) to open national schemes for RES-E generated in other countries (guidelines 3.3 (122))
- clearly favour the *market paradigm* and
- neglects the needs, the motives and the previous engagement of (new) actors at decentralized level in low carbon energy transition

IMPLICATIONS OF THE INSTRUMENT CHOICE I

Auction schemes/tenders cause:

- Higher transaction costs for investors for taking part in auctioning
- Uncertainties and higher risks for investors



Exclusion of smaller players – due to their limited affordability of costs and lower potential to diversify risks

- Undermining the process of decentralization of the energy system through spatial concentration of generation facilities (hotspots)
- Exclusion of less mature RES technologies
- Experiences of other countries show a low rate of project implementation (e.g. caused by underbidding)

Auction schemes and the promotion of the principle of open national schemes for electricity generated in other countries:

- *Imply* a spatial allocation of facilities according to best available returns due to weather and geographical conditions across Europe
- *Promote* benefits of economies of scale in an integrated market
- *Neglect* negative external effects of centralized RES facilities in geographical hotspots, the increased need for high voltage transmission lines - acceptance problems and additional costs
- *Ignore*: that targets of local, municipal and citizens' projects go far beyond return of investments:
 - They do not want to invest elsewhere but *on-site (own backyard)* in order to
 - gain additional benefits for the communities' development (e.g. jobs, security of supply, health and environment impacts, citizen's engagement, acceptance)

THE PRO-COALITION

Former Europe's energy commissioner Oettinger *versus* unilateral
German energy transition

„Slow down your energy transition! Germany should pursue no special path in energy policy... If everyone wants to be self-sufficient, there will be no internal market“
(Oettinger in February 2014, own translation)

“...citizens have **‘infiltrated’** the German power sector with their grassroot ***Energiewende***“ (Oettinger in a meeting with fellow Christian Democrats, quoted in Morris 2014).

Advocate general at ECJ Yves Bot with regard to the then pending ECJ case of the Finnish Ålands Vindkraft AB against the Swedish support scheme for renewable energies (*open national schemes*)

Case presents the court “... a *fresh opportunity* to rule on the consistency with EU law of national support schemes for energies produced from renewable sources under which the support is reserved to electricity producers located on the national territory” (Case C-573/12)

EXAMPLES OF THE DISCOURSE PRO/CONTRA THE IDEA UNDERPINNING THE STATE AID GUIDELINES THE CONTRA-COALITION

energycities: The European association of local authorities in energy transition , February 2014

“isn’t Energy a too important issue to be considered only under the ‘competition prism’?

“...threaten the delivery of the energy transition at local level. Giving priority to big utilities and companies, the Commission’s proposal **fails to take account of the benefits of a decentralized energy system**, which cannot be reaped through pure market and competition mechanisms “

German Renewable Energy Federation, February 2014

The ‘silver bullet’ for renewable energy support does not exist. The effectiveness {...} depends on the technology, the market segment, the Member State and other factors {...} **we encourage** the Commission to **not try to identify the best instrument** and promote it across Member States”

“The approach set out in the draft Guidelines - forcing Member States to use cooperation mechanisms unless they provide convincing reasons to the contrary - is an **obvious violation of the RED**”.

CONCLUSION I

EC (supranational actor) changed rules of the game in an ongoing governance dilemma

- discretionary power in competition law  shifts in instrument choices of national RES support schemes
- Need for energy policy coordination framed through lens of internal market requirements

Shortcomings of this market prism/ regulatory harmonisation approach:

- cost of overruling heterogeneous national preferences/risk perceptions
- need of public acceptance of large scale infrastructure
- Need for new actors challenging established pattern of action in energy field
- Need for experimentation and innovation in societal transitions

Lessons for policy:

- Pursue a more flexible approach instead of a strict harmonization of support schemes
- Reap the benefits of regulatory diversity - *room for decentralized experimentation*
- Look for alternatives to large- scale and centralized energy infrastructures (test the feasibility of an **alternate paradigm with ideational and economic relevance at subnational level across Europe**)

CONCLUSION II: RESEARCH NEED:

BACKING UP THE POSITIVE NARRATIVE OF DECENTRALIZED EXPERIMENTATION WITH EMPIRICAL EVIDENCE

- solid basis in empirical reality (e.g. 100% Renewable energy regions, transnational energy cities' collaboration, etc.)

but

- Literature on sub-national experimentation shows over-enthusiasm for the innovation potential of decentral and bottom-up processes (*positive narrative*) and lacks addressing scaling up needs

➤ **More research is needed on:**

- empirical evidence of decentral level's *real* contribution to solving the systemic challenges of energy transformations

➤ **Re-shift research focus to investigate conditions and mechanisms of scaling up (diffusion):**

- Evaluation of efforts at decentralised level with regard to :
 - governance challenges of systemic relevance that can be addressed at the local/regional level
 - transferability of decentral innovations
- Assess the interplay between the different modes of policy coordination in polycentric governance systems



Thank you for listening!

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Reference:

Tews, K. (2015): Europeanization of Energy and Climate Policy: The Struggle Between Competing Ideas of Coordinating Energy Transitions. In: *The Journal of Environment & Development* 24(3): 267-291.