Chapter 21

EU Membership: Implications for Czech Energy Security

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Abstract

This paper examines the evolution of the Czech Republic's energy security from the 1990s, focusing on its political, economic, and infrastructural challenges. During this period, the country was heavily dependent on imports of both oil and natural gas from the USSR/Russian Federation, with an energy infrastructure primarily structured to facilitate these imports. The first section of the paper examines the steps taken by Czechoslovakia and, later, the Czech Republic to diversify its energy sources and infrastructure, as well as the country's efforts to join international organizations, including the International Energy Agency. The second part analyses the evolution of the European Union's energy security policy and its implications for Czech energy security in the context of its EU membership. The paper mentions the role of the Czech Republic during its Presidency of the Council of the European Union in 2022, illustrating how EU membership has been central to enhancing the nation's energy resilience. Through EU solidarity and cooperation, the Czech Republic has strengthened its energy security, adapting to evolving challenges and crises.

Keywords: EU Energy Law; Energy Law; Energy Security; Czech Republic; EU Membership

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1. Introduction

During the 1990s, Czechoslovakia and later the Czech Republic found itself in very turbulent times.[1] The political and economic transformations in the region posed significant challenges for the Czech Republic. What is more, its energy sector was fully controlled and operated by the state, and its energy infrastructure had for decades been developed to interconnect only Eastern Bloc countries. Since then, the Czech Republic has taken various steps to strengthen its energy security, with joining the European Union appearing to be the most significant. The first part of this paper explores the dilemmas faced by Czechoslovakia/the Czech Republic in the 1990s and discusses measures adopted by the Czech Republic before it acceded to the EU; the second part examines the evolution of the EU's energy security policy and its implications for Czech energy security.

2. Energy Security

The concept of energy security is traditionally traced back to the beginning of the 20th century when societies began to rely on hydrocarbon fuels, which are unevenly distributed across the Earth's surface.[2] As energy has become increasingly important to society and national economies, so has energy security. There is no universally agreed definition of energy security because its meaning depends on a country's specific circumstances, priorities, and vulnerabilities. Furthermore, each state is exposed to different geopolitical realities, which have a major impact on its energy security.[3] In addition, perceptions of energy security have evolved dynamically over the past century. While up until the 1970s the focus was on the need to ensure physical availability of fuels, after the 1973 oil crisis, the concept of energy security was extended to include fuels' economic availability. Since the 1990s, the environmental impact of energy has also been emphasised. The most recent expansion of the energy security concept was in response to the dramatic increase in global terrorism and concerned the protection of physical infrastructure from terrorism and sabotage.[4]

Energy-importing countries naturally prioritize concerns about the security of their energy supplies. The International Energy Agency (IEA), created as an instrument to limit the negative consequences and risks associated with dependence on

1 On 31 December 1992 Czechoslovakia formally separated into two independent countries, the Czech Republic and the Slovak Republic.
2 Yergin, 2012, p. 267; Yergin, 2006, pp. 69–70.
3 Energy Charter Secretariat, 2015, p. 6.
4 Barton, 2004, p. 5.

energy supplies,[5] defines energy security as an uninterrupted availability of energy sources at an affordable price. The IEA further distinguishes between long-term aspects of energy security, which include sufficient and timely investment in exploration in line with economic developments and environmental needs, and short-term aspects, which represent the ability to respond to sudden changes in the balance between supply and demand.[6] In contrast, energy-exporting countries primarily focus on ensuring steady, predictable demand when defining energy security.[7]

3. Weaponisation of energy

Energy weaponisation can be understood as the deliberate manipulation of energy resources to pursue geopolitical or policy objectives.[8] According to Veronika Slakaityte and Izabela Surwillo, energy blackmail can take different forms; these may encompass complete or partial disruptions in supply, threats related to supply interruptions, coercive pricing strategies or leveraging of existing energy debts, and control over critical energy infrastructure.[9]

The emergence of a gas market in Europe was primarily driven by the discovery of gas reserves in the 1960s near Groningen, supplemented by natural gas transported by pipeline from the Soviet Union in the 1970s. With the discovery of gas in Western Siberia, which made the Soviet Union the largest producer of natural gas in the world, building a pipeline and an expansion of the gas supply to Europe appeared to be a logical step. However, the deepening of the energy relationship between Europe and the Soviet Union was met with categorical opposition from the United States, which feared that the money made from gas supplies would be used to arm the Soviet Union and Europe would become highly vulnerable to blackmail. The Western European countries estimated that supplies from the Soviet Union would not exceed 25% of total consumption and that gas imported from Norway would ensure a competitive environment. The Urengoy pipeline was therefore built despite criticism from the United States, and the amount of gas imported from the Soviet Union doubled. Up until the fall of the Soviet Union, US fears did not materialise.[10] However, after the collapse of the Soviet Union, the Russian Federation began to use the energy sector to strengthen its influence, particularly in relation to former

5 IEA, 2024.
6 IEA, 2023.
7 Novikau, 2022, p. 2.
8 See Boute, 2023; Černoch, 2007, p. 7.
9 Slakaityte and Vurwillo, 2024.
10 Yergin, 2012, p. 337.

Soviet republics or former Soviet satellites. In addition, Russian energy companies have actively expanded operations in these regions.[11]

According to Karen Smith Stegen, the key attributes necessary to use energy to advance foreign policy goals are consolidated energy resources and control of transit routes. Despite attempts to privatize the energy sector in the 1990s, the Russian government has since consolidated its control over the country's energy resources.[12] Belarus and Ukraine – key transit countries – have frequently been targeted by Russian Federation foreign energy policy. Specifically, the Russian Federation has pursued a highly aggressive pricing strategy towards both countries, offering significantly favorable gas prices when they remain loyal to the Russian Federation, and sharply increasing prices in response to any shifts in their foreign policy course. It also repeatedly cuts off gas supplies or acquires stakes in foreign companies that transport energy.[13]

4. The Czech Republic's energy system and domestic fossil fuels production in the 1990s

According to Filip Černoch, the development of the Czech energy sector in 1990s was driven by an ambition to reflect the geopolitical, political, and economic interests of the new state, including restructuring the centrally controlled energy system, as well as liberalisation and privatisation of the sector.[14]

Fossil fuels have historically constituted a critical component of the Czech Republic's energy mix. Coal is the dominant fuel source for total energy supply and serves as the primary fuel for electricity generation. In fact, large domestic coal resources have made the Czech Republic a net exporter of electricity. Conversely, the Czech Republic's oil and gas reserves are highly limited. In 1993, domestic production of crude oil accounted for only 2% of total oil consumption within the Czech Republic; similarly, domestic natural gas production contributed 2% to the nation's gas consumption. In the 1990s, the Czech Republic was heavily dependent on imports of both oil and natural gas from the USSR/Russian Federation.[15]

11 Korteweg, 2018, pp. 13–16.
12 Stegen, 2011, pp. 6505–6508; Korteweg, 2018, p. 14.
13 Korteweg, 2018, pp. 16–21.
14 Černoch, 2019, p. 28.
15 IEA, 2021a; Vlček, 2016b, pp. 151–152.

5. Early attempts to strengthen the energy security of the Czech Republic

Addressing energy dependency entails implementing various measures, with diversification recognised as a paramount policy approach. It is worth recalling Winston Churchill who famously held in 1907: 'On no one quality, on no one process, on no one country, on no one route, and on no one field must we be dependent.'[16] Today, diversification is considered the most effective way of ensuring energy security.

The primary difficulty faced by the Czech Republic revolved around the strategic orientation of its energy sector towards the Russian Federation, notably concerning oil and natural gas supplies. The vast majority of oil and natural gas consumed in Czechoslovakia was imported from the USSR/Russian Federation.[17]

With the clear intention of diversifying natural gas supplies and reducing Czech energy dependency on the Russian Federation, the state-owned company Transgas signed a long-term, 20-year gas supply contract in 1997 with Norwegian companies Statoil, Norsk Hydro, and Saga members of the Gas Negotiation Committee (GFU), for a total of 53 bcm of natural gas.[18] The Czech Republic was the first country in post-communist Europe to diversify its natural gas suppliers. In 1996, the Czech Republic built an additional oil pipeline route – the IKL oil pipeline.[19] The primary impetus for this expensive construction was the fear of potential problems with oil supplies through the Druzhba pipeline.[20] After being brought into operation in 1996, the IKL oil pipeline supplied around 35 % of oil, while the remaining import volume was transported via the Druzhba. By transporting 38 types of oil to the Czech Republic from a total of 16 countries, the IKL oil pipeline significantly reduced Czech dependency on oil transported from the Russian Federation.[21]

Another important step in increasing Czech resilience to energy crises was cooperation with the International Energy Agency (IEA), an international organisation established in 1974 to promote secure oil supplies. IEA member countries jointly committed to take common effective measures to meet oil supply emergencies by developing an emergency response system and coordinating strategies for oil stockpiling and distribution.[22] The Czech Republic became a membership candidate as early as 1994 and commenced efforts to fulfil the requirements for acquiring

16 Yergin, 2012, p. 267.
17 NET4GAS, no date; Vlček, 2016b, pp. 151–152.
18 Naegele, 1997; Strašíková, 2009.
19 Mero ČR, no date.
20 Vlček, 2016b, p. 151.
21 Mero ČR, no date.
22 IEA, 2024.

membership status.[23] These efforts included maintaining crude oil reserves or an equivalent product amounting to 90 days of the previous year's average net oil imports, ensuring that the government has immediate access to these reserves, adopting a demand restraint program to reduce national oil consumption by up to 10%, and adjusting the legal framework to comply with international obligations under the Agreement on an International Energy Program (a treaty establishing the IEA).[24] Emergency oil stocks in the Czech Republic are maintained by the Administration of State Material Reserves (SSHR). The Czech Republic formally became a full member of the IEA in 2001.[25]

An equally important step towards strengthening energy security was the ratification of the General Agreement on Tariffs and Trade (1993) and the establishment of the WTO (1995). It is worth noting that the Czech Republic is a founding Member of the WTO. WTO membership has opened up new opportunities for the import of energy from diverse markets.[26]

The Czech Republic further increased its energy resilience by signing the European Energy Charter in 1991 and the Energy Charter Treaty ("ECT") in 1995.[27] The ECT established a legal regime governing relations between energy exporting, importing, and transit countries. It is based on the principles of free trade and free transit of energy materials and products; it stimulates investment and depoliticises the energy sector in the belief that market-based principles enshrined in the ECT would preclude states from interfering in the energy sector and from using energy as a tool to pursue their political interests.[28] Due to the Czech Republic's dependency on Russian oil and gas, the Energy Charter Treaty was viewed as a vital tool of international law, having potential to effectively address energy security-related challenges faced by the Czech Republic in the early 1990s.

Overall, the diversification of natural gas supplies, building the IKL oil pipeline, membership in the IEA, WTO and the Energy Charter Treaty, represent remarkable achievements by the Czech Republic in strengthening its energy security during the early 90s.[29]

23 Ministry of Industry and Trade of Czech Republic, 2017.
24 Ibid.
25 IEA, 2021a.
26 WTO, 1996.
27 The Czech Republic ratified the Energy Charter Treaty in 1996.
28 Konoplyanik and Walde, 2006, p. 524.
29 Vlček, 2016c, p. 315.

6. EU Energy Policy Membership and EU Energy Security

Notwithstanding the pivotal role of energy in the concept of European integration – evidenced by the establishment of both the European Coal and Steel Community (1951/1952) and the European Atomic Energy Community (1957/1958) – its political sensitivity has long prevented its deeper integration. For an extended period, electricity and gas markets were constrained by national borders and operated by state-owned energy monopolies. Although energy was subject to EU law, [30] the practical application of primary legislation in this sector was largely obstructed by political considerations. According to Kim Talus, energy played a strategic and political role in respect of national sovereignty and member states were not willing to transfer specific energy-related powers to the EU.[31]

The only exemption was the adoption of Council Directive 68/414/EEC imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and/or petroleum products.[32] It was adopted in response to an oil embargo imposed in the course of the Six Day War in 1967. Arab oil producing countries placed an embargo on all oil shipments to the United States, Great Britain, and West Germany, all of whom they believed at the time to be aiding the State of Israel.[33] The European Economic Community acknowledged that any difficulty, even temporary, having the effect of reducing supplies of such products imported from third states could cause serious disruption to the economic activity of the Community, and it should aim at offsetting or at least diminishing any harmful effects in such a case. More specifically, the Community aimed at increasing the security of supply for crude oil and petroleum products in Member States by establishing and maintaining minimum stocks of the most important petroleum products.[34]

For decades, energy security considerations in the EU were predominantly associated with the potential disruption of crude oil supplies from the Middle East. Natural gas and its supply became the focus of EU interest in the 1990s. The European Commission's Communication *Security of Gas Supply*, issued in 1999, viewed natural gas as a source of energy contributing to competitiveness, protection of the environment, and security of supply. It is worth noting that the European Commission acknowledged that natural gas is the cleanest fuel and, hence, it could play a significant role in meeting the EU's Kyoto commitments to reduce emissions of CO_2 by replacing fossil fuels with higher carbon intensity. In addition, the European Commission believed that a growing share of gas in the EU energy mix could reduce

30 CJEU, *Costa v Enel*.
31 Talus, 2016, p. 3.
32 Council Directive 68/414/EEC of 20 December 1968 imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and/or petroleum products.
33 Daoudi and Dajani, 1984, p. 67.
34 See the Preamble of Council Directive 68/414/EEC of 20 December 1968 imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and/or petroleum products.

its oil dependency and contribute to a more diversified and better-balanced energy fuel mix in the EU.[35]

Energy security was further discussed in the context of the EU enlargement. The European Commission noted the energy dependency of Central and Eastern European Countries (CEEC applicant countries) on the Russian Federation. While average dependency on Russian gas in the EU was around 17%, the CEECs were dependent on Russia for two-thirds of their gas consumption.[36] In this context, the European Commission noted that there was mutual dependency between EU and non-OECD gas suppliers and transit countries (Russian Federation and Algeria). It was believed that the EU's energy concerns were matched by reciprocal concerns and need for gas producers such as Russia to have secure markets and hard currency revenues in order to finance investments in exploration, production, and transportation infrastructure.[37]

Energy security was further analysed in the 2000 Green paper *Towards a European Strategy for the Security of Energy Supply*. The Commission acknowledged that a policy of geopolitical diversification has not succeeded in mitigating the EU's dependence on the Middle East (for oil) and the Russian Federation (for natural gas). While the Commission again underlined that some applicant countries were entirely dependent on a single gas pipeline connecting them to a single supplier country, it also noted that the continuity of supplies from the USSR/Russian Federation over the preceding 25 years served as testimony to exemplary stability.[38]

The Czech Republic became a Member State of the European Union on 1 May 2004. The Energy Policy adopted by the Czech government in 2000 acknowledged that the European Community's energy policy objectives – promoting competitiveness, ensuring a secure and reliable energy supply, and protecting the environment – were aligned with those of the Czech Republic's energy policy. The Czech Republic believed that the primary tool for achieving the aforementioned EU objectives is the completion of the internal market, representing the highest level of liberalization and integration among EU member states.[39]

6.1. EU Energy Security: Internal Energy Market

The effectiveness of legal frameworks for strengthening energy security traditionally depends on analysing specific measures to mitigate the impacts of energy crises. Within the European Union context, this would entail the assessment of measures to safeguard gas supply security and enhance the energy resilience of the EU. However, limiting ourselves to these measures in the case of the EU would be

35 European Commission, 1999.
36 Ibid., p. 11.
37 Ibid., p. 25.
38 European Commission, 2000.
39 Government of the Czech Republic, 2000, p. 11.

short-sighted. The existence of an internal market itself is undoubtedly of great importance for energy security. In fact, transparent, competitive, and well-regulated energy markets can help mitigate political influences and promote efficient resource allocation and investment in the sector. The EU itself has acknowledged that the security of gas supply shall be primarily safeguarded by ensuring the proper and continuous functioning of the internal market in natural gas.[40] Exceptional measures may only be implemented when markets can no longer adequately address a disruption in gas supply. In such a situation, market – based measures should be prioritised over non-market-based security of gas supply measures.[41]

In 2012, the European Commission opened formal proceedings to investigate whether Gazprom, the Russian producer, and supplier of natural gas, might be hindering competition in Central and Eastern European gas markets, in breach of EU antitrust rules. More specifically, the European Commission investigated whether Gazprom divided gas markets by hindering the free flow of gas across Member States (via the so-called destination clause), whether Gazprom prevented the diversification of the supply of gas, and whether Gazprom imposed unfair prices on its customers by linking the price of gas to oil prices.[42]

The three-year investigation led to the following preliminary conclusions: (1) Gazprom was using territorial restrictions, such as export ban clauses, destination clauses, or other measures that prevent the cross-border flow of gas, such as by requesting wholesalers to obtain Gazprom's approval for exports or refusing to change the location to which the gas should be delivered under certain circumstances, to prevent gas from flowing freely between and to the eight CEECs (Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland and Slovakia); (2) Gazprom has charged unfair prices in five Central and Eastern European countries (Bulgaria, Estonia, Latvia, Lithuania and Poland); (3) Gazprom leveraged its market dominance in Bulgaria and Poland by making gas supplies conditional upon obtaining certain infrastructure-related commitments from wholesalers. A Statement of Objections was sent to Gazprom.[43]

To address the Commission's concerns and to meet the Commission's overall objective of the free flow of gas at competitive prices across the Central and Eastern European countries, Gazprom offered a set of initial commitments.[44] The Commission found the commitments offered by Gazprom as effective and necessary to address the concerns and decided, under Article 9 of the EU's Antitrust Regulation 1/2003,

40 Regulation (EU) No 994/2010 concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC, Preamble (11); Regulation (EU) No 2017/1938 concerning measures to safeguard security of gas supply and repealing Regulation (EU) No 994/2010, Preamble (3), (7), Article 1.

41 Regulation (EU) No 2017/1938 concerning measures to safeguard security of gas supply and repealing Regulation (EU) No 994/2010, Preamble (33).

42 European Commission, 2012.

43 European Commission, 2015.

44 Case AT 39816. Commitment Proposal, 2017.

to make these commitments legally binding on Gazprom.[45] As a result, Gazprom had to remove any restrictions placed on customers to re-sell gas cross-border, Gazprom had to facilitate gas flows to and from isolated markets, namely the Baltic States and Bulgaria, relevant Gazprom customers are given an effective tool to make sure their gas price reflects the price level in competitive Western European gas markets, and Gazprom was forbidden to act on any advantages concerning gas infrastructure that it may have obtained from customers by leveraging its market position in gas supply.[46]

The antitrust investigation initiated by the European Commission in 2012 revealed that Gazprom was using territorial restrictions to prevent gas from flowing freely in eight CEE countries, including the Czech Republic. Hence, the effective functioning of the internal energy market together with rigorous enforcement of Competition Law in the EU have enhanced the energy security of the Czech Republic.

6.2. EU Energy Security: Security of Gas Supply

The Green Paper *Towards a European Strategy for the Security of Energy Supply*, adopted in 2000, acknowledged that natural gas is becoming an increasingly important component in the EU energy supply, and that over the long term, the EU is expected to become ever more dependent on gas imported from non-EU sources of supply. Furthermore, the Commission emphasised that the enlargement of the EU will only serve to reinforce this trend.[47] In addition, gas market liberalisation has exposed the gas industry to new challenges since any interruption of gas supplies could immediately affect the internal energy market. Thus, the EU, for the first time, adopted a legal framework ensuring a minimum common approach to the security of gas supply – Council Directive 2004/67/EC of 26 April 2004 concerning measures to safeguard the security of natural gas supply. The Directive established the Gas Coordination Group which has been useful in exchanging information and defining common actions among Member States, the Commission, the gas industry, and consumers.

In 2004, the EU was joined by 10 states of which 7 were part of the former Eastern Bloc. Very soon, the security of gas supplies appeared at the forefront of the EU energy policy. Major temporary disruptions in the supply of Russian gas in 2006 and 2009 revealed the EU's energy vulnerability.[48]

To enhance its resilience to future interruptions of gas supplies, the EU adopted Regulation (EU) No 994/2010 concerning measures to safeguard the security of

45 Commission Decision of 24.5.2018 relating to a proceeding under Article 102 of the Treaty on the Functioning of the European Union (TFEU) and Article 54 of the EEA Agreement Case AT.39816 – Upstream Gas Supplies in Central and Eastern Europe.

46 European Commission, 2018.

47 European Commission, 2000.

48 See Rodríguez-Fernández et al., 2020; European Commission, 2009; Stern, 2006; Pirani et al., 2009.

gas supply.[49] Key features of this regulation included the creation of preventive and emergency action plans, infrastructure and supply standards, and regional and Union-level emergency responses.

The EU's lack of competence in the field of energy has long hindered its ability to effectively pursue a cohesive energy policy. Hence, the EU was compelled to rely on its competence in areas such as common market regulation and environmental protection to regulate energy.[50] With the adoption of the Lisbon Treaty, energy became an area where EU competence was explicitly conferred, addressing the previous lack of legal certainty. According to Article 194 TFEU, the Union's energy policy shall, in a spirit of solidarity between Member States, aim to ensure the security of energy supply in the Union.

The exercise of this newly acquired competence was envisaged by the EU's first Energy Security Strategy, adopted in 2014. Furthermore, "energy security, solidarity, and trust" became one of the pillars of the *Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy*.[51] The latter strategy explicitly recalls that joint approaches in the field of energy can make all parts of the European Union stronger, for instance in case of supply shortages or disruptions. In addition, it stresses that the 'spirit of solidarity in energy matters is explicitly mentioned in the Treaty and is at the heart of the Energy Union.'[52]

In line with the *Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy*, the EU adopted Regulation (EU) 2017/1938 concerning measures to safeguard the security of gas supply. It was built on Regulation (EU) No 994/2010, however, two main new features have been added – the concept of risk groups for gas supply threats and a new solidarity mechanism for gas crises. Risk groups, established on the basis of gas supply routes, supply country risks, and the cohesion of capabilities to exchange gas,[53] shall serve as a basis for enhanced regional cooperation and risk assessment.[54] Under the solidarity mechanism, a directly connected Member State must reduce gas flows to customers, excluding "solidarity protected customers", in the event of a crisis. The freed-up gas volumes should then be redirected to a Member State requesting solidarity, until supply to "solidarity protected customers" in the requesting Member State can be ensured.[55] However, this is a last resort measure and can be applied only if the requesting State has exhausted all market and non-market-based measures. Fair and immediate compensation is to be paid to the Member State providing solidarity assistance.[56]

49 European Commission, 2009, p. 7.
50 Haraldsdóttir, 2014, p. 209.
51 European Commission, 2015.
52 Ibid., p. 4.
53 Fleming, 2019, p. 105.
54 Regulation (EU) 2017/1938, Article 3 (7).
55 Fleming, 2019, p. 108.
56 Regulation (EU) 2017/1938, Preamble (42).

6.3. EU Energy Security: Energy Solidarity as a key principle of EU Energy Law

Article 194 of the TFEU serves as a general legal basis for all energy policy measures adopted by the EU. It aims to guarantee the smooth functioning of the energy market and the security of the EU energy supply, to promote energy efficiency and innovation, and to enhance the interconnection of energy networks. All these objectives shall be pursued "in the spirit of solidarity between Member States". Little attention was paid to this explicit reference to solidarity until the OPAL judgement in 2019.

The OPAL pipeline connected the Nord Stream pipeline, which brought natural gas from the Russian Federation to Germany via the Baltic Sea, to the existing European gas infrastructure, particularly the German gas transmission network. The OPAL pipeline was granted an exemption from provisions of EU energy law on third-party access to the gas transmission network and the regulation of tariffs under the condition that Gazprom can reserve, as a dominant undertaking, only 50% of the cross-border capacities of the OPAL pipeline, unless releasing onto the market a volume of gas of 3 billion m3/year through that pipeline. In 2016, the Federal Network Agency with Commission's approval amended these conditions essentially allowing Gazprom to operate the OPAL pipeline at its full capacity.[57] Poland challenged this decision, arguing that the Commission's approval violated the principle of energy security and energy solidarity, as enshrined in the reference to 'the spirit of solidarity between Member States' in Article 194 TFEU. More specifically, Poland argued that the grant of a new exemption relating to the OPAL pipeline threatened the security of gas supply in Central Europe, since it enabled Gazprom and undertakings in the Gazprom group to redirect additional volumes of gas onto the EU market by fully exploiting the capacities of the North Stream 1 pipeline.[58] By contrast, Germany argued that the reference to "spirit between Member States" is merely a political and abstract concept and does not have binding legal effect in the sense that the validity of an act adopted by a Union institution can be assessed on the basis of that principle. The court (Grand Chamber) held that "the spirit of solidarity between Member States" under Article 194 constitutes a specific expression, in the field of energy, of the principle of solidarity, which is itself one of the fundamental principles of EU law.[59] Hence, the principle of energy solidarity entails a general obligation for the European Union and the Member States in the exercise of their respective competences concerning EU energy policy to take into account the interests of all stakeholders liable to be affected, by avoiding the adoption of measures that might affect their interests, as regards security of supply, economic and political viability and the diversification of sources of supply.[60] The court found that

57 Riley, 2019.
58 Case T-883/16, para 50.
59 Case T-883/16, para 38.
60 Case T-883/16, para 71.

the Commission had breached the principle of solidarity since it did not examine the impact of the amended exemption regime on the security of supply in Poland.[61] Once the CJEU confirmed the General Court's findings in OPAL, it became clear that solidarity was central to EU energy policy.[62]

Legal reference to the "spirit of solidarity between Member States" has far-reaching consequences for the energy security of the Czech Republic. Whenever EU institutions or other Member States exercise their energy competence, the Czech Republic may raise its concerns if it believes that its energy security may be affected. Furthermore, the Czech Republic may challenge the adoption of measures affecting its energy security before the Court of Justice of the EU.

6.4. EU Energy Security: Energy Diplomacy

Given the European Union's reliance on external energy supplies, cooperation with external partners is pivotal to its energy policy. From the perspective of EU law, EU external energy policy is implemented through the EU's exclusive competence in the area of the common commercial policy.[63]

The EU has a general interest in stable, transparent, rule-based, and liquid international energy markets. Intended to diversify external suppliers of energies, the EU energy strategies traditionally emphasise the need for more coherent and targeted foreign policy vis-à-vis major energy producing and transit countries, as well as the need to find new suppliers.[64] According to the *Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy*, the EU should use all external policy instruments to ensure that a strong, united EU engages constructively with its partners and speaks with one voice on energy.[65]

The EU discusses energy security-related issues at multilateral energy organisations, such as the IEA, and the Energy Charter Conference, and forums, such as the UN, G7, and G20. The EU also enables close integration of its closer neighbourhood into the EU energy market via the Energy Community or the EU4Energy. According to a joint communication *EU External Energy Engagement in a Changing World*, access to well-diversified supplies from international markets will be key to ensuring EU's resilience.[66] EU trade policy plays a key role in this regard since it can effectively open access to supplies through the development and implementation of trade agreements. Energy and Raw Materials Chapters of EU Free Trade Agreements (FTAs) play a central role in this ambition.

The importance of energy diplomacy has increased with Russia's invasion of Ukraine. Moving away from Russian fossil fuels will require replacing some of them

61 Case T-883/16, para 77–78.
62 Kaisa and Reins, 2023.
63 Treaty on the Functioning of the European Union, Art. 207; Craig and De Búrca, 2015, p. 336–339.
64 European Commission, 2014.
65 European Commission, 2015, pp. 7–8.
66 European Commission, 2023, p. 16.

with fossil fuels from other international suppliers. Stronger trade and engagement with new key partners, such as Africa, is expected to contribute to the EU's energy security today with oil and LNG supplies, and in the future through green hydrogen and renewable fuels as well as raw materials critical to the green energy transition.[67]

7. Conclusions

In the 1990s, the Czech Republic demonstrated an extraordinary ability to mitigate the consequences of its energy dependence on the USSR/Russian Federation. Specifically, the Czech Republic built new energy infrastructure, diversified its supplies, and took steps to join key international organizations, such as the IEA, WTO, or the EU. This paper focuses on the implications of the Czech Republic's accession to the European Union for the country's energy security. Since its accession, the EU's energy policy and its role in enhancing energy security have evolved significantly. The EU has not only gained explicit competence in energy policy but has also addressed successive energy crises by implementing measures aimed at further enhancing its resilience.

During its Presidency of the Council of the European Union in 2022, the Czech Republic advocated for EU-wide solutions rather than uncoordinated national approaches, with the European Union emerging as the cornerstone of energy security for its Member States. In addition, various innovative measures – some of which were unimaginable before 2022 – have been expeditiously implemented, including the voluntary/mandatory 15% reduction in gas demand, the obligation to reduce gross electricity consumption, the requirement to ensure the filling of underground gas storage facilities within EU territory, and the establishment of the EU Energy Platform.

Overall, EU membership has significantly bolstered the Czech Republic's energy security, providing a framework for cooperation, investment, and resilience in the face of evolving energy challenges. This paper argues that the principles of solidarity, resilience, and cooperation, as embedded within the EU framework, will be instrumental in navigating the complex landscape of energy security and addressing future crises.

67 Ibid., p. 18.

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