

Making a case for the role of actor preferences in explaining differentiated implementation - A comparison of Dutch and German permit granting procedures for energy infrastructure

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KEYWORDS: electricity transmission infrastructure, TEN-E Regulation, decoupling, qualitative case study

The Trans-European Network – Energy Regulation (TEN-E Regulation No. 347/2013/EU) aims at promoting cross-border energy infrastructure through projects of common interest (PCIs). PCIs benefit from a fastened permit granting procedure for which the Regulation lays down a number of requirements streamlining national permit procedures. Despite this, the length of permit procedures differs across Member States and long permit procedures are considered the main reason why every third electricity PCI experiences significant delays (ACER, 2022).

In order to explain why Member States score so differently in terms of the policy outcome – the length of permit procedures – implementation of the TEN-E Regulation in Germany and in the Netherlands is compared. Representing most similar cases, both countries are considered to be ‘model implementers’ of the permitting framework as envisaged in the Regulation (Trinomics, 2018). Regarding the outcome, the Netherlands has been able to realise a shortening of permit procedures – something which cannot be observed in Germany.

Building on the findings of Zhelyazkova et al. (2016) on the concept of decoupling, the permit procedures of the two countries are analysed. Rather than administrative capacity, political constraints or a lack of legitimacy of EU rules, it is argued that the main difference between the two countries’ permit procedures is to be found in the divergent preferences of the actors involved in the process.

In the Netherlands it is the Minister for Economic Affairs and Climate Policy who drives the process and is the main decision-making authority. On the contrary, in Germany it is the Bundesnetzagentur (Federal Network Agency), a regulatory authority operating independently from the German Ministry for Economic Affairs and Climate Action. Based on Scharpf (2000) who holds that actors’ preferences can be derived from their self-interest, their organisation-specific normative expectations and their collective identity, it is argued that the preferences of the respective actors towards new electricity infrastructure differ. Whereas the Dutch Economics Minister is expected to take a strong pro-project oriented approach, siding with the operator of the national network, the Bundesnetzagentur is expected to take a mediating role balancing the different interests as much as possible. The hypotheses are tested by analysing the data available on the progress on electricity infrastructure projects falling under the respective national permit procedures.

By conducting an in-depth analysis into the permit procedures of the two countries, the paper seeks to shed some light on how Member States have implemented the provisions of the TEN-E Regulation. It also wants to contribute to the discussion under which conditions customisation can amount to “decentralised problem-solving” (Zhelyazkova & Thomann, 2022) and where it tends to negatively affect the policy outcome.