

## Basic information

**2009/0106(CNS)**

CNS - Consultation procedure  
Regulation

Procedure completed

Energy infrastructure: investment projects

Repealing Regulation (EC) No 736/96 1995/0083(CNS)  
Repealed by 2013/0082(COD)



### Subject

3.45.08 Business environment, reduction of the administrative burdens  
3.60 Energy policy  
3.60.02 Oil industry, motor fuels  
3.60.03 Gas, electricity, natural gas, biogas  
3.60.05 Alternative and renewable energies  
3.70.02 Atmospheric pollution, motor vehicle pollution  
3.70.13 Dangerous substances, toxic and radioactive wastes (storage, transport)


## Key players

European Parliament	<b>Committee responsible</b>		<b>Rapporteur</b>	<b>Appointed</b>	
	<b>ITRE</b> Industry, Research and Energy		VLEAN Adina (ALDE)	16/09/2009	
			Shadow rapporteur MARINESCU Marian-Jean (PPE) GIEREK Adam (S&D) JADOT Yannick (Verts /ALE) KARIM Sajjad (ECR)		
	<b>Committee for opinion</b>		<b>Rapporteur for opinion</b>	<b>Appointed</b>	
	<b>ENVI</b> Environment, Climate and Food Safety		PIRILLO Mario (S&D)	09/09/2009	
	<b>Committee for opinion on the legal basis</b>		<b>Rapporteur for opinion</b>	<b>Appointed</b>	
	<b>JURI</b> Legal Affairs		LECHNER Kurt (PPE)	09/11/2009	
	Council of the European Union	<b>Council configuration</b>		<b>Meetings</b>	<b>Date</b>
		Transport, Telecommunications and Energy		2983	2009-12-07
Transport, Telecommunications and Energy		3024	2010-06-24		
Transport, Telecommunications and Energy		3001	2010-03-11		

European Commission	<b>Commission DG</b>	<b>Commissioner</b>
	Energy	OETTINGER Günther




Key events			
Date	Event	Reference	Summary
16/07/2009	Legislative proposal published	COM(2009)0361 	Summary
14/09/2009	Committee referral announced in Parliament		
07/12/2009	Debate in Council		
04/02/2010	Vote in committee		Summary
11/02/2010	Committee report tabled for plenary, 1st reading/single reading	A7-0016/2010	
24/02/2010	Debate in Parliament	CRE link	
25/02/2010	Decision by Parliament	T7-0034/2010	Summary
25/02/2010	Results of vote in Parliament		
24/06/2010	Act adopted by Council after consultation of Parliament		
24/06/2010	End of procedure in Parliament		
15/07/2010	Final act published in Official Journal		

Technical information	
<b>Procedure reference</b>	2009/0106(CNS)
<b>Procedure type</b>	CNS - Consultation procedure
<b>Procedure subtype</b>	Legislation
<b>Legislative instrument</b>	Regulation
	Repealing Regulation (EC) No 736/96 1995/0083(CNS) Repealed by 2013/0082(COD)
<b>Legal basis</b>	Treaty on the Functioning of the EU TFEU 337
<b>Other legal basis</b>	Rules of Procedure EP 165
<b>Stage reached in procedure</b>	Procedure completed
<b>Committee dossier</b>	ITRE/7/00746

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Amendments tabled in committee		PE430.568	09/11/2009	
Committee draft report		PE430.531	23/11/2009	
Amendments tabled in committee		PE430.916	15/12/2009	
Specific opinion		PE438.390	29/01/2010	

Committee opinion	<a href="#">ENVI</a>	<a href="#">PE430.259</a>	29/01/2010	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A7-0016/2010</a>	11/02/2010	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T7-0034/2010</a>	25/02/2010	<a href="#">Summary</a>

#### European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	<a href="#">SEC(2009)0972</a> 	16/07/2009	
Legislative proposal	<a href="#">COM(2009)0361</a> 	16/07/2009	<a href="#">Summary</a>
Document attached to the procedure	<a href="#">SEC(2009)0971</a> 	16/07/2009	
Commission response to text adopted in plenary	<a href="#">SP(2010)1339</a>	17/03/2010	

#### Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
ESC	Economic and Social Committee: opinion, report	<a href="#">CES1952/2009</a>	16/12/2009	

#### Additional information

Source	Document	Date
National parliaments	<a href="#">IPEX</a>	
European Commission	<a href="#">EUR-Lex</a>	

#### Final act

<a href="#">Regulation 2010/0617</a> <a href="#">OJ L 180 15.07.2010, p. 0007</a>	<a href="#">Summary</a>
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## Energy infrastructure: investment projects

2009/0106(CNS) - 16/07/2009 - Legislative proposal

**PURPOSE:** to revise and further strengthen the system laid down in Council Regulation (EC) No 736/96 on notification to the Commission of investment projects in EU energy infrastructure, while easing the administrative burden.

**PROPOSED ACT:** Council Regulation.

**BACKGROUND:** in the context of the new Energy Policy aiming at securing supply, mitigating climate change and ensuring competitiveness, significant investment in energy infrastructure is crucial. Private economic operators have now a more prominent role for investment in infrastructure. Obtaining an overall picture of the development of investment in energy infrastructure in the Community is one feature of such a policy. It should enable the Community to make the necessary comparisons, evaluations or to take relevant measures based on appropriate figures and analysis, in particular concerning the future energy supply – demand balance. The Commission has to monitor closely the situation to anticipate any potential problems and bring sufficient transparency to market participants. However, the Commission needs appropriate data on investment projects.

The current regulatory framework imposing on Member States reporting obligations on energy infrastructure is heterogeneous. Relevant and validated data is not sufficiently available for monitoring developments in a cross – sector perspective at EU level. In addition, Council Regulation (EC) No 736/96 on notification to the Commission of investment projects in EU energy infrastructure in the petroleum, natural gas and electricity sectors is no longer enforced consistently and geared to the most recent evolutions of the energy sector.

In the wake of the [Second Strategic Energy Review](#) adopted in 2008 by the Commission, both the Council of the European Union<sup>1</sup> and the European Parliament agreed with the Commission and insisted on promoting investments and improving transparency as well as of intensifying the works on supply and generation adequacy outlooks and network development plans.

IMPACT ASSESSMENT: the Commission considered four policy options:

- **Option 0:** Status quo - Policy monitoring without a specific reporting mechanism;
- **Option 1:** Repeal of Council Regulation (EC) No 736/96;
- **Option 2:** Policy monitoring with a complementary reporting mechanism;
- **Option 3:** Policy monitoring with a fully-fledged reporting mechanism.

The Commission considers that **Option 2** (policy monitoring with a complementary reporting mechanism) provides the best compromise.

CONTENT: the proposed Regulation establishes a common framework for the notification to the Commission of data and information on investment projects in energy infrastructure in the petroleum, gas, electricity and bio-fuel sectors and related to carbon dioxide produced by these sectors.

Every two years, Member States or the entity they delegate this task to would be required to collect and notify data and information on investment projects concerning production, transport and storage. To minimise the administrative burden, two elements of flexibility and simplification are introduced:

- unless otherwise decided by Member States, undertakings would be under an obligation to provide Member States - or the competent entity - information on their investment projects, including decommissioning projects;
- Member States would be exempted from reporting if they already provide equivalent information to the Commission under EU energy sector-specific legislation. This would also be the case if the bodies in charge of network development plans for gas and electricity collect the relevant data. In this case, they would be requested to notify the relevant data to the Commission, with the appropriate comments of Member States if necessary.

Data and information collected (type of investment, planned capacities and major obstacles, etc.) would provide the major trends for investment in EU energy infrastructure. Provision is made to guarantee that data and information notified to the Commission meet generally accepted standards; that data and information are received, stored and processed with the appropriate IT tools and in full compliance with the legal framework on data protection for individuals; that data and information will be made public except where they are commercially sensitive.

On the basis of the data and information received, the Commission will provide a regular and cross-sector analysis of the structural evolution and perspectives of the EU energy system and any other specific analysis needed. This would allow for an identification of potential future demand and supply gaps and obstacles to investment. With these analyses, the Commission will be in a better position to promote best practice and to establish greater transparency for market participants. To develop common views on these issues, the results of these analyses would be discussed with stakeholders and published.

BUDGETARY IMPLICATIONS: the proposal will have a limited impact on the Community budget, in particular to cover expenditure on information technology and, should the Commission so decide, expenditure on data purchasing of data and reimbursement of experts. No major direct impact is foreseen for the budgets of Member States.

## Energy infrastructure: investment projects

2009/0106(CNS) - 24/06/2010 - Final act

PURPOSE: to establish a common framework for the notification to the Commission of data on investment projects in energy infrastructure.

LEGISLATIVE ACT: Council Regulation (EU, Euratom) No 617/2010 concerning the notification to the Commission of investment projects in energy infrastructure within the European Union and repealing Regulation (EC) No 736/96.

CONTENT: obtaining an overall picture of the development of investment in energy infrastructure in the Union is essential for the Commission to perform its tasks in the field of energy. The availability of regular and up-to-date data and information will enable the Commission to make the necessary comparisons, evaluations or to propose relevant measures based on appropriate figures and analysis, in particular concerning the future energy supply-demand balance.

**Subject matter and scope:** this Regulation establishes a common framework for the notification to the Commission of data and information on investment projects in energy infrastructure in the oil, natural gas, electricity, including electricity from renewable sources, and bio-fuel sectors, and on investment projects related to the capture and storage of carbon dioxide produced by these sectors. It applies to investment projects of the types listed in the Annex on which construction or decommissioning work has started or on which a final investment decision has been taken. Member States may furthermore submit any estimated data or preliminary information on investment projects of the types listed in the Annex on which construction work is scheduled to start within five years and to those which are scheduled to be decommissioned within three years, but for which a final investment decision has not been taken.

**Notification of data:** while keeping the collection and reporting burden proportionate, Member States must compile all data and information specified in this Regulation from 1 January 2011 and from then onwards every two years. They must notify the data and relevant project information specified in the Regulation to the Commission in 2011, that year being the first reporting year, and from then onwards every two years. This notification shall be made in aggregated form, except for data and relevant information relating to cross-border transmission projects. Member States will notify aggregated data and relevant project information by 31 July of the reporting year concerned.

Member States are exempt from this obligation under certain specified conditions.

**Data sources:** the undertakings concerned shall notify the data to Member States in whose territory they are planning to carry out investment projects before 1 June of each reporting year. The data or information notified shall reflect the situation of investment projects as of 31 March of the relevant reporting year. This does not apply to undertakings where the Member State concerned decides to use other means of supplying the Commission with the data or information.

**Content of the notification:** with regard to investment projects of the types listed in the Annex, the notification shall indicate, where appropriate: (a) the volume of the capacities planned or under construction; (b) the type and main characteristics of infrastructure or capacities planned or under construction, including the location of cross border transmission projects, if applicable; (c) the probable year of commissioning; (d) the type of energy sources used; (e) the installations capable of responding to security of supply crises, such as equipment enabling reverse flows or fuel switching; and (f) the equipment of carbon capture systems or retrofitting mechanisms for carbon capture and storage.

With regard to any **proposed decommissioning** of capacities, the notification shall indicate: (a) the character and the capacity of the infrastructure concerned; and (b) the probable year of decommissioning.

Any notification shall include the total volume of installed production, transmission and storage capacities which are in place at the beginning of the reporting year concerned or whose operation is interrupted for a period exceeding three years.

**Quality and publicity of data:** Member States shall aim to ensure the quality, relevance, accuracy, clarity, timeliness and coherence of data and information they notify to the Commission. The Commission may publish data and information forwarded provided that the data and information are published in an aggregated form and that no details concerning individual undertakings and installations are disclosed or can be inferred. Member States, the Commission, or their delegated entities shall each preserve the confidentiality of commercially sensitive data or information in their possession.

**Implementing provisions:** the Commission shall adopt, by 31 October 2010, the provisions necessary for the implementation of the Regulation, concerning the form and other technical details of the notification of data and information referred to above.

**Data processing:** the Commission shall be responsible for developing, hosting, managing and maintaining the IT resources needed to receive, store and carry out any processing of the data or information on energy infrastructure notified to the Commission.

**Monitoring and reporting:** the Commission publish every two years a cross-sector analysis of the structural evolution and perspectives of the energy system of the Union. This analysis shall aim in particular at:

- identifying potential future gaps between energy demand and supply that are of significance from an energy policy perspective of the Union;
- identifying investment obstacles and promoting best practices to address them; and
- increasing transparency for market participants and potential market entrants.

The Commission shall provide all Member States with an opportunity to comment on the draft analyses, and it shall discuss the analyses with interested parties, such as ENTSO-E, ENTSO-G, the Gas Coordination Group and the Oil Supply Group.

**Review:** this must be done by 23 July 2015. In the review, the Commission shall, inter alia, examine the possible extension of the scope to include the extraction of gas, oil and coal.

ENTRY INTO FORCE: 04/08/2010.

## Energy infrastructure: investment projects

2009/0106(CNS) - 25/02/2010 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 551 votes to 24, with 25 abstentions, a legislative resolution amending, under the consultation procedure, the proposal for a Council regulation concerning the notification to the Commission of investment projects in energy infrastructure within the European Community and repealing Regulation (EC) No 736/96.

The main amendments were as follows:

**Legal basis:** the Regulation should be based on the new 'energy' legal basis, Art. 194(1) TFEU. The decision-making procedure under this new provision is the ordinary legislative procedure (the former "codecision" procedure).

**Purpose and scope:** Parliament states that this Regulation establishes a common framework for the notification to the Commission of data and information on investment projects in energy infrastructure in the oil, gas, coal, to ensure the confidentiality of the data provided by undertakings. This Regulation shall also apply to EU companies which invest in energy infrastructure projects in third countries which are directly connected to or impact on the energy networks of one or more Member States. In addition, it shall also apply to the types of investment projects, on which construction (and not work) has started or is scheduled to start within five years.

**Definitions:** Members would like to include in the definition of 'investment projects' the development of new interconnections with energy transport systems between the EU and its neighbouring countries. It should also be noted that the Regulation should foresee a specific mention of district heat – production of heat, of combined heat and power, district heating and cooling. It should also mention district heating and cooling under 'transport'. Lastly, the definition of "storage" shall mean the storage on a permanent or temporary basis of thermal and electrical energy or energy sources in above ground and underground infrastructure or geological sites, or the containment of carbon dioxide in underground geological formations.

**Reporting:** as the Regulation will only be adopted in 2010, Members consider it unrealistic to request reporting as of 2010 and propose the beginning of 2011 as an alternative date (as opposed to the beginning of 2010 as proposed by the Commission).

**Data sources:** Members consider that it has to be ensured that the information and data provided by other means is fully compatible and comparable with the data and information provided by notification. They also place emphasis on the aim of avoiding double reporting and unnecessary administrative burdens.

**Content of the notification:** information should include, inter alia: (i) the volume of the capacities planned or under construction; (ii) the location, name, type and main characteristics of infrastructure or capacities planned or under construction, with details of which are at the planning stage and

which are under construction; (iii) the date on which the initial request for authorisation was received by the relevant authorities and the estimated date by which all necessary construction authorisations and permits will have been granted; (iv) the temporary unavailability or interruption of the operation of an infrastructure for a period exceeding three years; (v) the probable date of decommissioning, including, where applicable, the intermediate dates for the gradual phasing out of the operation of the infrastructure; (vi) the list of planned measures for environmental rehabilitation, where such rehabilitation is required by specific legislation.

Where Member States possess any information concerning delays and/or obstacles to the implementation of investment projects, their delegated entities or the specific body shall include that information in the notification.

**Quality and publicity of data:** an amendment states that Member States, the entity they delegate to or where appropriate the specific bodies entrusted with EU energy sector specific investment plans shall ensure the quality, relevance, accuracy, clarity, timeliness and coherence of data and information they notify to the Commission. If the information is not sufficiently clear and comprehensive, the Commission may require those bodies to provide additional information. The Commission shall publish aggregated data and information forwarded pursuant to this Regulation. Such publication shall be without prejudice to the relevant national and European Union legislation relating to public access to information, in particular environmental information, information regarding publicly listed companies or information on the public financing of investment projects. Member States, their delegated entities and the Commission shall each be responsible for preserving the confidentiality of commercially sensitive data or information in their possession.

**Implementing measures:** in order to avoid administrative burden, an amendment aims to clarify how the exemption in the case of double reporting is to be applied.

**Data processing:** given the highly sensitive nature of the data and information requested by the Commission, it must ensure that the IT resources needed for the purposes guarantee the confidentiality of the data and information notified to the Commission pursuant to this Regulation.

**Monitoring and reporting:** on the basis of data and information forwarded and, if appropriate, of any other data sources including data purchased by the Commission, the Commission shall provide at least every two years a cross-sector analysis of the structural evolution and perspectives of the EU energy system in particular with a view to: (i) identifying potential future gaps and/or surplus of energy supply and demand with a special emphasis on potential forthcoming deficiencies and flaws in the production and transmission infrastructure, in particular those due to aging of infrastructures; (ii) monitoring the evolution of investment projects from the date of the notification to actual implementation, and in particular the development of renewable sources of energy, promoting best practices to address identified obstacles; (iii) increasing transparency for market participants and potential entrants; (iv) monitoring EU investment projects in third countries having an impact on the EU energy market and security; (v) identifying the risk of an excessive dependency on a single energy infrastructure, as well as the risks linked to connections with third countries; (vi) identifying investment needs for improving the functioning of the internal energy market (reverse flows and interconnectors for example) .

The Commission shall be obliged to discuss their analyses with interested parties.

The Commission shall, with a view to ensuring consistency between the various monitoring-related publications, take due account of multiannual energy infrastructure investment plans drawn up by special bodies established pursuant to other pieces of legislation, such as Regulation (EC) No 714 /2009 on electricity.

**Annex:** Members consider that the Regulation should: (i) take into account the capacity of extraction/production of oil and gas, (ii) provide reporting obligations for natural gas capacities; (iii) reduce the threshold for onshore wind farms; (iv) to include, in the Annex, a chapter on coal infrastructure.

## Energy infrastructure: investment projects

2009/0106(CNS) - 11/03/2010

The Council reached **political agreement** on this proposal, which aims to establish a common framework for the notification by Member States of data and information on investment projects in energy infrastructure in the oil, natural gas, electricity (including from renewable sources), and bio-fuel sectors, and on investment projects related to the capture and storage of carbon dioxide.

More and better data on planned investments will contribute to drawing up a clear and complete picture of development and needs of energy infrastructure in the Union and subsequently allow for the anticipation of potential risks and for better coordination between Member States concerned and at Community level.

This proposal constitutes an important link in the Union's energy policy instruments, taking into account the changing nature of the energy structure within and outside the Community, the increasing inflow of energy from renewable sources from a growing number of producers and recurring supply problems, the security of energy supply, the completion of the internal market and the transition towards a low-carbon economy.

Reporting under this regulation will concern projects on which construction has started or on which a final investment decision has been taken. In addition, Member States may report on projects on which construction work is scheduled to start in five years or which are scheduled to be decommissioned within three years. As regards all existing energy infrastructure in operation, only the total volume of installed production, transmission and storage capacities has to be reported. The Commission is preparing a notification template which will be presented at a later stage.

The current proposal is a follow-up to the Action Plan 2007-09 on Energy Policy for Europe<sup>1</sup> and to the Second Strategic Energy Review. The Commission and Member States had been invited to identify investment required to satisfy EU strategic needs in relation to gas and electricity supply and demand. Consultation of the European Parliament was optional but the Council has included amendments from Parliament in the text.