

## 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.