

Measures to safeguard security of gas supply

2009/0108(COD) - 21/09/2010 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 601 votes to 27, with 23 abstentions, a legislative resolution concerning measures to safeguard security of gas supply and repealing Directive 2004/67/EC.

It adopted its position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure). The amendments adopted in plenary are the result of a compromise reached between the European Parliament and the Council. They amend the Commission's position as follows:

Subject matter: the amended text states that the Regulation establishes provisions aimed at safeguarding the security of gas supply by ensuring the proper and continuous functioning of the internal market in natural gas, by allowing for exceptional measures to be implemented when the market can no longer deliver the required gas supplies.

This Regulation also provides transparent mechanisms, in a spirit of solidarity, for the coordination of planning for, and response to, an emergency at Member State, regional and Union levels.

Protected customers: this definition covers all household customers connected to a gas distribution network and, in addition, where the Member State concerned so decides, may also include: (a) small and medium-sized enterprises, provided that they are connected to a gas distribution network, and essential social services, provided that they are connected to a gas distribution or transmission network, and provided that all these additional customers do not represent more than 20% of the final use of gas; and/or (b) district heating installations to the extent that they deliver heating to household customers and to the customers referred to in point (a) provided that these installations are not able to switch to other fuels and are connected to a gas distribution or transmission network.

Responsibility for security of gas supply: the text stipulates that the security of gas supply is a shared responsibility of natural gas undertakings, Member States, notably through their Competent Authorities, and the Commission, within their respective areas of activities and competence. Such shared responsibility requires a high degree of cooperation between them.

As soon as possible and no later than 12 months following the entry into force of the Regulation, each Member State shall designate a Competent Authority that ensures the implementation of the measures provided for in this Regulation.

Establishment of a Preventive Action Plan and an Emergency Plan: before adopting a Preventive Action Plan and an Emergency Plan at national level, the Competent Authorities shall exchange their draft Plans and consult each other at the appropriate regional level. They should consult the Commission, with a view to ensuring that their draft Plans and measures are not inconsistent with the Preventive Action Plan and the Emergency Plan of another Member State and that they comply with this Regulation and with other provisions of Union law. Such consultation shall be carried out in particular between neighbouring Member States, notably between isolated systems forming gas islands and their neighbouring Member States.

The Competent Authorities concerned may decide to establish joint Preventive Action Plans and joint Emergency Plans at regional level, in addition to the Plans established at national level. In the case of joint Plans, the Competent Authorities concerned shall endeavour, where appropriate, to conclude agreements in order to implement regional cooperation.

When establishing and implementing the Preventive Action Plan and the Emergency Plan at national and/or regional level, the Competent Authority shall take due account of the safe operation of the gas system at all times and address and set out in those Plans the technical constraints affecting the operation of the network, including the technical and safety reasons which may lead to the reduction of flows in the event of an emergency.

No later than two years following the entry into force of the Regulation, the Preventive Action Plans and Emergency Plans, including, where applicable, joint Plans, shall be adopted and made public. Such Plans shall be notified to the Commission without delay. The Commission shall inform the Gas Coordination Group. Competent Authorities shall ensure the regular monitoring of the implementation of such Plans.

Content of the national and joint Preventive Action Plans: the national and joint Preventive Action Plans shall contain: (a) the results of the risk assessment; (b) the measures, volumes, capacities and the timing needed to fulfil the infrastructure and supply standards, including where applicable, the extent to which demand-side measures can sufficiently compensate, in a timely manner, for a supply disruption; (c) obligations imposed on natural gas undertakings and other relevant bodies, including for the safe operation of the gas system; (d) the other preventive measures, such as those relating to the need to enhance interconnections between neighbouring Member States and the possibility to diversify gas routes and sources of supply, if appropriate, to address the risks identified in order to maintain gas supply to all customers as far as possible; (e) the mechanisms to be used for cooperation with other Member States for preparing and implementing joint Preventive Action Plans and joint Emergency Plans; (f) information on existing and future interconnections, including those providing access to the gas network of the Union, cross-border flows, cross-border access to storage facilities and the physical capacity to transport gas in both directions ("bi-directional capacity"), in particular in the event of an emergency; (g) information on all public service obligations that relate to security of gas supply.

The national and joint Preventive Action Plans shall be based primarily on market measures, and shall take into account the economic impact, effectiveness and efficiency of the measures, the effects on the functioning of the internal energy market and the impact on the environment and on consumers, and shall not put an undue burden on natural gas undertakings, nor negatively impact on the functioning of the internal market in gas.

Infrastructure standard: the amended text provides that Member States or, where a Member State so provides, the Competent Authority shall ensure that the necessary measures are taken so that by four years after entry into force of this Regulation at the latest, in the event of a disruption of the single largest gas infrastructure, the capacity of the remaining infrastructure, determined according to the N-1 formula as , is able to satisfy total gas demand of the calculated area during a day of exceptionally high gas demand occurring with a statistical probability of once in 20 years.

By three years following the entry into force of the Regulation, the transmission system operators shall adapt the functioning of the transmission systems in part or as a whole so as to enable physical gas flows in both directions on cross-border interconnections.

Luxembourg, Slovenia and Sweden shall, by way of exception, not be bound by, but shall endeavour to meet, the obligation on infrastructure standards, while ensuring the gas supplies to protected customers.

Procedure for enabling bi-directional capacity or seeking exemption: for each cross-border interconnection between Member States, transmission system operators shall, not later than 15 months after the entry into force of this Regulation, submit to their Member States or, where Member States so provide, their Competent Authorities or their regulatory authorities, after consulting with all other transmission system operators concerned: (a) a proposal for bi-directional capacity concerning the reverse direction ("reverse flow capacity"); or (b) a request for an exemption from the obligation to enable bi-directional capacity.

The proposal for reverse flow capacity or the request for exemptions shall be based on an assessment of market demand, projections for demand and supply, technical feasibility, the costs of reverse flow capacity, including the consequent reinforcement of the transmission system, and the benefits for security of supply.

The authority concerned receiving the proposal or exemption request shall notify the authorities concerned of the other Member States that could, according to the risk assessment, benefit from reverse flow capacity and the Commission of the proposal or the exemption request without delay. That authority concerned shall give those authorities concerned and the Commission the possibility to issue an opinion within a period of four months following receipt of that notification.

Supply standard: the Competent Authority shall require the natural gas undertakings, that it identifies, to take measures to ensure gas supply to the protected customers of the Member State in the following cases: (a) extreme temperatures during a seven-day peak period occurring with a statistical probability of once in 20 years; (b) any period of at least 30 days of exceptionally high gas demand, occurring with a statistical probability of once in 20 years; and (c) for a period of at least 30 days in case of the disruption of the single largest gas infrastructure under average winter conditions.

Emergency Plans and Crisis Levels: the national and joint Emergency Plans shall inter alia: (a) define the role and responsibilities of natural gas undertakings and of industrial gas customers including relevant electricity producers, taking account of the different extents to which they are affected in the event of gas supply disruptions, and their interaction with the Competent Authorities and where appropriate with the national regulatory authorities at each of the crisis levels; (c) define the role and responsibilities of the Competent Authorities and of the other bodies to which tasks have been delegated at each of the crisis levels; (d) ensure that natural gas undertakings and industrial gas customers are given sufficient opportunity to respond at each crisis level; (e) identify, if appropriate, the measures and actions to be taken to mitigate the potential impact of a gas supply disruption on district heating and the supply of electricity generated from gas; (f) establish detailed procedures and measures to be followed for each crisis level.

The three main crisis levels shall be as follows:

- early warning level (early warning): when there is concrete, serious and reliable information that an event may occur which is likely to result in significant deterioration of the supply situation and is likely to lead to the alert or the emergency level being triggered; the early warning level may be activated by an early warning mechanism;
- alert level (alert): when a supply disruption or exceptionally high gas demand occurs which results in significant deterioration of the supply situation, but the market is still able to manage that disruption or demand without the need to resort to non-market measures;
- emergency level (emergency): in the event of exceptionally high gas demand, significant supply disruption or other significant deterioration of the supply situation and in the event that all relevant market measures have been implemented but the supply of gas is insufficient to meet the remaining gas demand so that non-market measures have to be additionally introduced with a view, in particular, to safeguarding supplies of gas to protected customers.

The national and joint Emergency Plans shall ensure that cross-border access to infrastructure in accordance with Regulation (EC) No 715/2009 is maintained as far as technically and safely possible in the event of an emergency. The Plans shall not introduce any measure unduly restricting the flow of gas across borders.

When the Competent Authority declares any of the crisis levels, it shall immediately inform the Commission and provide it with all the necessary information, in particular with information on the action it intends to take. In the event of an emergency which may result in a call for assistance from the Union and its Member States the Competent Authority of the Member State concerned shall without delay notify the Commission's Civil Protection Monitoring and Information Centre.

The Member States and, in particular, the Competent Authorities shall ensure that: (a) no measures are introduced which unduly restrict the flow of gas within the internal market at any time; (b) no measures are introduced that are likely to endanger seriously the gas supply situation in another Member State; and (c) cross-border access to infrastructure in accordance with Regulation (EC) No 715/2009 is maintained as far as technically and safely possible, in accordance with the Emergency Plan.

The national and joint Emergency Plans shall be updated every two years, unless circumstances warrant more frequent updates, and shall reflect the updated risk assessment.

Union and regional emergency responses: at the request of a Competent Authority that has declared an emergency, the Commission may declare a Union emergency or a regional emergency for a specifically affected geographical region. At the request of at least two Competent Authorities that have declared an emergency, the Commission shall declare, as appropriate, a Union or regional emergency. In all cases, the Commission, using the means of communication most appropriate to the situation, shall gather the views of, and take due account of all the relevant information provided by, the other Competent Authorities. When it assesses that the underlying basis for the Union or regional emergency no longer justifies a declaration of emergency, the Commission shall declare an end to the Union or regional emergency. In all cases, the Commission shall give its reasons and inform the Council of its decision.

In a Union or regional emergency, the Commission shall coordinate the action of the Competent Authorities, taking full account of relevant information from, and the results of, the consultation of the Gas Coordination Group.

Monitoring by the Commission: the Commission shall carry out continuous monitoring of, and reporting on, security of gas supply measures. By four years following the entry into force of the Regulation at the latest the Commission, on the basis of the report and after consulting the Gas Coordination Group shall:

- draw conclusions as to possible means to enhance security of supply at Union level, assess the feasibility of carrying out risk assessments and establishing Preventive Action Plans and Emergency Plans at Union level and report to the European Parliament and the Council on the implementation of this Regulation, including inter alia the progress made on market interconnectivity; and
- report to the European Parliament and the Council on the overall consistency of Member States' Preventive Action Plans and Emergency Plans as well as their contribution to solidarity and preparedness from a Union perspective.

Derogation: the Regulation shall not apply to Malta and Cyprus for as long as no gas is supplied on their respective territories.