

**Adoption and adaptation of Regulation (EU) No 994/2010 of the European Parliament and of the Council concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC**

**ECS Note for the PHLG discussion in December 2013**

**1. The Background**

In addition to the internal markets' legislation within the Third Energy Package, the security of gas supply acquis was experiencing a substantial evolution during years at the European Union level, which resulted in adoption of the Regulation (EU) 994/2010 on October 20, 2010. The Regulation imposed new tools to assess and secure the gas supply in European Union, given the importance of gas in the energy mix of the Union. This Regulation aims at demonstrating to gas customers that all the necessary measures are being taken to ensure their continuous supply, particularly in case of difficult climatic conditions and in the event of disruption. These objectives should be achieved through the most cost-efficient measures in order not to affect the relative competitiveness of this fuel compared to other fuels and by smooth regional cooperation.

**2. Adoption of Regulation**

Streamlining the energy legislation with the related European acquis, the 9th Energy Community Ministerial Council meeting in Chisinau, in October 2011, invited the Secretariat "...[t]o start a preparatory work to facilitate the future implementation of Regulation (EU) 994/2010, such as carrying out the risk assessments and preparing (on the basis of the their results) the Preventive Action and Emergency Plans". It should be considered as its principal addition in relation to strengthening the importance of a common market and the role of EU institutions.

Both the 2<sup>nd</sup> Security of Supply Coordination Group and the 8th Energy Community Gas Fora (in 2013), in order to narrow the gap between the regulatory framework for security of gas supply in EU and in the Contracting Parties, supported as soon as possible incorporation of this Regulation into the Energy Community acquis.

The Energy Community Work Plan 2014-2015 also envisages that the Regulation should be adopted in the EnC legal framework.

The Secretariat has accomplished many actions in implementing certain elements of the Regulation 994 before its formal adoption – the Security of Supply Coordination Group and the Gas Subgroup were established, the Study on security of gas supply<sup>1</sup> was launched and finalised. The new Guideline for the gas part of the Security of Supply Statements was adopted and the process of submission of the Security of Supply Statement submission was revived. Therefore,

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<sup>1</sup> Study on the Implementation of the new Regulation (EU) 994/2010 concerning measures to safeguard security of gas supply in the Energy Community: <http://www.energy-community.org/pls/portal/docs/2204183.PDF>

adopting Regulation 994/2010 with certain adaptations to be suitable for the Energy Community would only be a logical next step.

Regulation (EU) 994/2010 requires clear definition of protected customers and clear designation of a Competent Authority, which is an institution with power and obligation to monitor the security of supply. The first deliverable of this body is a National Risk Assessment which should provide information on possible situations of gas supply failures and risk scenarios in each Contracting Party. Building on the results of the National Risk Assessment, the Competent Authority, has to develop a National Preventive Action Plan and an Emergency Plan. A Preventive Action Plan should focus on preventing and mitigating identified risks, while an Emergency Plan should provide steps and procedures to deal with crisis when it happens. The Regulation strongly advises the regional cooperation during the preventive phase as well as in a response in a crisis.

In addition, the Regulation defines some criteria such as energy delivered, namely supply standard, and available capacity, namely infrastructure standard. Along with those two criteria, there is also an obligation to implement bi-directional flows on the interconnectors.

Certainly, all Contracting Parties adopted legislation that defines the roles and responsibilities of different gas market players in accordance with Directive 2004/67/EC. Quite a few Contracting parties did not define standards for minimum security of supply, these remain to be implemented. The majority of the Contracting Parties implemented a definition of protected customers, as well as reporting on the status of security supply. However, national emergency measures are lacking in some Contracting Parties, as well as a list of instruments for security of supply. Hence, although an additional effort will be needed for the Contracting Parties to transform their present legal and institutional framework to adapt it to the requirements of the Regulation, they will not start from the scratch and will relatively fast experience the benefits of such an exercise.

The Contracting Parties share the same supply routes with the neighbouring Member States, being exposed to the similar threats to security of gas supply. Thus, harmonised framework and common approach towards security of gas supply would make sense, as it has been the case with other legislation related to energy market. Furthermore, tools provided by Regulation 994/2010, such as Risk Assessment, Preventive Action and Emergency Plans, could be extremely helpful to Contracting Parties in raising overall preparedness for dealing with gas supply crisis.

### **3. Areas of adaptation**

The Regulation needs to be adapted to reflect the Energy Community specific situation. Except the institutional/deadline changes, the findings of the mentioned study should be taken into account when adapting the particularly demanding N-1 (infrastructure) standard.

Adaptations would also take into account: definition of protected customers, definition of supply standards, more generous deadlines for drafting first risk assessment, a preventive and emergency plan, more time for regional cooperation when exchanging and drafting such plans, potential involvement of the Contracting parties into institutional set-up on EU level etc.