



Opinion 01/2025

under Regulation (EU) 2017/1938 of 25 October 2017 concerning measures to safeguard the security of gas supply as amended by Regulation (EU) 2022/1032 with regard to gas storage, on the Emergency Plan submitted by the competent authority of Georgia

1. Procedure

Article 8(2)(b) of Regulation (EU) 2017/1938 of 25 October 2017 concerning measures to safeguard the security of gas supply as amended by Regulation (EU) 2022/1032 with regard to gas storage (“the Regulation”)¹ requires the competent authority of each Contracting Party, after consulting the natural gas undertakings, the relevant organisations representing the interests of household and industrial gas customers, including electricity producers, electricity transmission system operators, and, where it is not the competent authority, the national regulatory authority, to establish an Emergency Plan (“EP”) containing the measures to be taken to remove or mitigate the impact of a disruption of gas supply in accordance with Article 10 of the Regulation. The EP shall be developed in accordance with the templates contained in Annex VII of the Regulation.

The EP shall be made public and notified to the Energy Community Secretariat (“the Secretariat”) which shall inform the Security of Supply Coordination Group about the notification and publish it on the Energy Community’s website. Within four months of the notification by the competent authorities, the Secretariat shall assess the EP taking into account the views expressed in the Security of Supply Coordination Group.

Within four months of the notification by the competent authorities, the Secretariat shall assess the EP taking into account the views expressed in the Security of Supply Coordination Group (Article 8(7) of the Regulation). The Secretariat shall issue an opinion to the competent authority with the recommendation to review an EP if one or more of the circumstances identified in Article 8(8) of the Regulation apply.

Within three months of notification of the Secretariat’s opinion, the competent authority concerned shall notify the amended EP to the Secretariat or shall inform the Secretariat of the reasons for which it disagrees with the recommendations (Article 8(9) of the Regulation).

The Ministry of Economy and Sustainable Development (“the Ministry”), Georgia’s competent authority, notified the Secretariat of its national risk assessment on 12 September 2024, pursuant to Article 7 of the Regulation. The Secretariat discussed the national risk assessment with Georgian authorities and received clarifications.

¹ Incorporated and adapted by Ministerial Council Decision 2021/15/MC-EnC of 30 November 2021 on Annex I to the Treaty establishing the Energy Community and adapting and implementing Regulation (EU) 2017/1938 concerning measures to safeguard the security of gas supply and by Ministerial Council Decision 2022/01/MC-EnC adapting and implementing Regulation (EU) 2022/1032 with regard to gas storage.



On 20 September 2024, the Ministry of Economy and Sustainable Development notified the Secretariat of its preventive action plan. The Secretariat provided its opinion on the preventive action plan to the Ministry of Economy and Sustainable Development on 20 December 2024.²

Upon its notification to the Secretariat on 26 November 2024, the Secretariat herewith assesses the EP in view of Article 10 of the Regulation and the template attached as Annex VII to the Regulation.

2. Secretariat's assessment of the EP

The EP largely follows the template attached to the Regulation. It is detailed and comprehensive in many aspects, including the description of the roles and responsibilities of the competent authority and involved stakeholders, as well as various market-based and non-market-based measures identified for different crisis levels.

Nevertheless, the Secretariat identified the following issues.

a. Indicators and parameters of crisis levels

According to Section 1(b) of Annex VII of the Regulation, the EP shall include indicators or parameters used to consider whether an event may result in a significant deterioration of the supply situation.

The present EP contains indicators and parameters per crisis level, but it is recommended to re-evaluate them on two grounds:

First, they must be aligned with the definitions of crisis levels provided by the Regulation and national acts and be reviewed to ensure consistency and comprehensiveness (e.g. in some instances, indicators for the alert level resemble those for the early warning level).

Secondly, they must be checked against the balancing rules and responsibilities, as defined by Article 21 of Regulation (EC) 715/2009 and by Regulation (EU) 312/2014³ and be aligned with rules on regular market functioning, to avoid triggering crisis levels by imbalances.

The Secretariat considers that in accordance with Article 8(8) lit. d of the Regulation, the EP needs to be amended to comply with Section 1(b) of Annex VII of the Regulation.

b. Lack of clarity regarding measures and inconsistency

Section 2 of Annex VII of the Regulation provides a format and sequence of necessary elements of measures to be adopted per crisis level, including a brief description of (i) the measure and main actors involved; (ii) the procedure to follow, if applicable; (iii) the expected contribution of the measure to cope with the impact of any event or prepare ahead of its appearance; (iv) the flows of information among the actors involved; (v) the reporting obligations imposed on natural gas undertakings at alert level and

² https://www.energy-community.org/dam/jcr:edeb0b8b-5ab6-4f68-aecb-178c0d7654e1/ECS%20Opinion%204-24_Georgia.pdf

³ As adapted and adopted for the Energy Community by the Ministerial Council decisions, [Energy Community acquis - Energy Community Homepage](#)

emergency levels; (vi) an assessment of the necessity of such measure in order to cope with a crisis, including the degree of its use; (vii) the procedure to implement the measure; (viii) the expected contribution of the measure to mitigate the situation at emergency level as a complement to market-based measures; (ix) other effects of the measure; (x) justification of the compliance of the measure with the conditions laid down in Article 11(6) of the Regulation.

The present EP does not fully comply with these requirements: Certain aspects are missing or provided partially or unstructured across and within crisis levels, leading to a lack of clarity and inconsistency with other parts of the EP and requirements of section 2 of Annex VII of the Regulation (e.g. the expected contribution of the measure is not addressed at early warning and alert levels (point (iii) above).

In addition, sections 1, 2, 3, and Annex 3 of the EP are not aligned, and the flow of information among the actors is not reflected (point (iv) above). When the Crisis Council is convened and consulted, its members are informed by default, eliminating the need for separate notification alongside it, as indicated in the EP. In particular, the concept developed throughout the EP that the competent authority receives information, convenes, consults, and chairs the Crisis Council (consisting of all competent actors), coordinates among important players, including informing the Secretariat, makes decisions and issues instructions is not followed properly as regards communication flow and reporting. Furthermore, some crisis measures require proper classification (such as market-based vs. non-market-based and Conditionally Neutral Measures as referred to in the EP), while other measures pertain to the preventive action plan. Additionally, the EP does not justify the compliance of non-market-based measures with the conditions stipulated in Article 11(6) of the Regulation (point (x) above).

Consequently, Section 2 of Annex VII is not consistently followed and hence the EP lacks coherence. The EP should be completed with the missing elements, including the provision of the necessary information on non-market-based measures while avoiding unnecessary repetitions throughout the text.

Additionally, according to Article 10(1) lit. o of the Regulation, the EP shall establish the compensation mechanisms for natural gas undertakings where appropriate, taking due account of the confidentiality of sensitive data.

The present EP lacks mechanisms for compensating affected market participants, as required under Article 10(1) lit. o of the Regulation. According to the EP, such mechanisms will be provided once the relevant methodology is developed and approved. Nevertheless, the document mentions settlement mechanisms with foreign suppliers, traders, and other market participants in the social sector, which may include compensation where necessary, primarily managed through balancing annual gas contract volumes. The meaning and practical application of this provision remain unclear.

The Secretariat, therefore, takes the view that in accordance with Article 8(8) lit. d of the Regulation, the EP must be revised to render the measures clearly defined, transparent and verifiable, as required by Article 8(1) of the Regulation and comply with Article 10(1) lit o and Section 2 of Annex VII of the Regulation.

c. Lack of clarity on crisis manager and the roles and responsibilities of different actors

Section 4 of Annex VII of the Regulation requires the identification of the crisis manager and the definition of its role.

In the present EP, the person and role of the crisis manager is not clearly indicated. While the term “Crisis Manager” is used in certain sections of the EP and the Ministry may fulfill this function, the entity responsible for this role is not explicitly defined.

Furthermore, the roles and responsibilities of different actors, as required under Article 10(1) lit. b and Section 5 of Annex VII of the Regulation, are outlined both at the beginning and throughout the EP. However, their roles and responsibilities are not clearly defined throughout the EP. In some instances, responsibilities are contradictory (e.g., concerning the Crisis Council, Ministry, gas TSO and etc.) or responsible parties are not defined. There is an inconsistency regarding whether the Crisis Council is consulted before or after the announcement of crisis levels. In some cases, the gas transmission system operator issues instructions and the Crisis Council informs the Secretariat on the declaration of crisis levels while in other parts of the EP these tasks are attributed to the Ministry. Thus, the roles and responsibilities of each actor have to be cross-checked and defined in a consistent manner throughout the EP in order to provide clarity and avoid overlapping responsibilities.

The Secretariat considers that in accordance with Article 8(8) lit. d of the Regulation, the EP needs to be amended to comply with Article 10(1) lit. b and Sections 4 and 5 of Annex VII of the Regulation.

d. Other issues (Prevention of undue consumption by non-protected customers, disconnection order)

Pursuant to Section 6 of Annex VII of the Regulation, measures in place to prevent, to the extent possible and without endangering the safe and reliable operation of the gas system or creating unsafe situations, the consumption by customers who are not protected customers of gas supply intended for protected customers during an emergency shall be described in the EP, including the nature of the measure, main actors and the procedures to follow. Moreover, Article 10(1) lit. l of the Regulation requires the EP to describe the technical or legal arrangements in place to prevent undue gas consumption of customers connected to a gas distribution or transmission network but not protected customers.

In this relation, section 7 of the present EP specifies that once the decision on limiting gas supply to non-protected customers is made, non-protected customers will be encouraged to voluntarily reduce gas consumption, and failure to comply with the restrictions may result in appropriate penalties, which are not consistent with its voluntary character. Neither technical nor legal arrangements in this respect are specified as required under Article 10(1) lit. l of the Regulation.

In the recommended disconnection order of the EP, the disruption of supply to households is allowed while some essential social services still may remain supplied. This contradicts the principles of the Regulation to prioritize households and/or gas-fired power plants (in specified circumstances). The list lacks power plants, however, their outage is allowed in other sections of the document, sometimes in the first place and sometimes following other non-protected customers. Thus, the disconnection order requires alignment with the Regulation and improvement to ensure consistency in its parts.



The Secretariat, therefore, considers that the EP must clearly define the technical and legal arrangements in place to prevent undue gas consumption by customers connected to a gas distribution or transmission network who are not classified as protected customers. The disconnection order should be reviewed and aligned with the relevant provisions of the EP and the requirements of the Regulation, ensuring that households are prioritized over essential social services.

The Secretariat considers that in accordance with Article 8(8) lit. d of the Regulation, the EP, including its disconnection order, needs to be amended to comply with Article 10(1) lit. I of the Regulation.

3. Conclusion

Based on the above assessment, and in view of Article 8(8) lit.d of the Regulation, the Secretariat concludes that some elements of the EP do not comply with certain provisions of the Regulation.

The Secretariat requests the Ministry of Economy and Sustainable Development to amend the EP, taking duly into consideration the concerns expressed by the Secretariat in the present opinion, and notify the Secretariat of the amended EP within three months pursuant to Article 8(9) of the Regulation.

The Secretariat's assessment expressed in this opinion is without prejudice to any position it may take vis-à-vis Georgia as regards the compatibility of national measures with Energy Community law, including in the context of Dispute Settlement Procedures.

The Secretariat will publish this opinion. The Secretariat does not consider the information contained herein to be confidential, in particular as it relates to the publicly available EP. The Ministry of Economy and Sustainable Development is invited to inform the Secretariat within five working days following receipt of the opinion whether it considers that it contains commercially sensitive information, the confidentiality of which is to be preserved.

Vienna, 24 March 2025

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