Report by the Energy Community Secretariat on the Implementation of Regulation (EU) 2017/1938 (the Gas Security of Supply Regulation)

Background

The Energy Community adapted and adopted Regulation (EU) 2017/1938 on 30 November 2021[1] (the Gas Security of Supply Regulation). The adopted Regulation corresponds to the original EU Regulation, except for the provisions related to the regional dimension and solidarity, which were excluded. The general transposition deadline was 31 December 2022, with consequent deadlines for risk assessments by 1 January 2024 and preventive actions plans (PAP) and emergency plans (EP) by 1 May 2024.

In response to the uncertain security of supply situation in the wake of Russia's war of aggression against Ukraine, the EU adopted Regulation (EU) 2022/1032 (the Storage Regulation), amending the Gas Security of Supply Regulation and the Gas Regulation. The main objectives of the Storage Regulation are imposing obligatory national storage targets and certifying storage system operators.

The Energy Community also incorporated the adapted Storage Regulation[2], which entered into force on 1 October 2022, amending Regulation (EU) 2017/1938 and Regulation (EC) 715/2009 as they were adapted and adopted for the Energy Community in 2011 and 2021.

Article 23 of Regulation (EU) 2017/1938, as adapted and adopted for the Energy Community, states that "*the functioning of the rules and procedures established by this Regulation shall be reviewed by the Energy Community Secretariat by 2024. Taking into account the review, the European Commission may propose amendments including steps further integrating the Contracting Parties into the security of supply and solidarity mechanisms applicable within the European Union.*"

This report presents such a review.

[1] Incorporated and adapted by the Ministerial Council Decision 2021/15/MC-EnC adapting and implementing Regulation (EU) 2017/1938 of the European Parliament and of the Council concerning measures to safeguard the security of gas supply.

[2] Incorporated and adapted by the Ministerial Council Decision 2022/01/MC-EnC adapting and implementing Regulation (EU) 2022/1032 of the European Parliament and of the Council amending Regulation (EU) 2017/1938 as adapted and adopted in the Energy Community by Ministerial Council Decision 2021/15/MC-EnC, and Regulation (EC) No 715/2009 as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC, with regard to gas storage.

Introduction

The Gas Security of Supply Regulation aims to prevent and respond to potential gas supply disruptions on national and regional levels. As adapted for the Energy Community, this Regulation lays down rules for Contracting Parties to prevent, mitigate, and manage gas crises. Thus, the Gas Security of Supply Regulation establishes procedures to protect the functioning of the single gas market. The Regulation provides for regional cooperation among the Contracting Parties and with the Secretariat.

Immediately after the Energy Community adopted the Gas Security of Supply Regulation in November 2021, the gas security of supply of the European landscape underwent profound changes, most notably in 2022 after the Russian full-scale invasion of Ukraine, which resulted in downsizing Russian supplies to the EU and Energy Community, and the complete halt of Russian gas transit via Ukraine on 1 January 2025.

Russian gas imports to the EU have been replaced mainly by supplies from alternative suppliers, including additional pipeline imports from Norway, Azerbaijan, and Algeria, and, above all, a considerable increase in LNG imports. This supply shift has had various indirect impacts on the gas supply and security of supply of the Contracting Parties.

Serbia and Bosnia and Herzegovina continue to be mainly supplied by Gazprom via Turkish Stream. Following the change in Bulgaria's gas supply patterns, North Macedonia managed to unlock the sole cross-border capacity and receive the vast majority of the total annual demand through non-Gazprom contracts. The Western Balkans will benefit from the new sources of supply, the new LNG terminal (Alexandrouploius), the interconnector Serbia—Bulgaria, which has been finished, and the Interconnector North Macedonia-Greece, expected to be online in the next two years.

Georgia's gas supply comes mainly from Azerbaijan, balancing winter demand by Russian gas. The latter has supplied some 20% of its annual demand in recent years. Partially, this could be explained due to the increased need for Azeri gas in Europe and commercial and political issues related to the intake of Russian gas. Georgia is an important transit country for the Azeri gas to the EU and the Contracting Parties.

Despite war conditions, Ukraine managed to keep reliable Russian gas transit for Slovakia and further to the West and Moldova until the transit contract signed in 2019 expired. Ukraine satisfied domestic demand through national production supplies and imports through western borders. Depending on the market and other factors, additional storage from the EU and Moldovan traders to the Underground Gas Storage (UGS) facilities varied in the last years. Ukraine increased firm capacities with the EU interconnections for the west-east flows.

Moldova has experienced the most significant changes – it went from its 100% dependence on Russia in 2021 to none a year later, maintaining such a trend until now. The right bank of the Nistru River switched to EU supplies using interconnectors and storage in Romania and Ukraine. Moldova finalized and started to utilize a new interconnection with Romania. The left bank of the Dniester River (Transnistria) was still dependent on Gazprom supplies by 1 January 2025, facing uncertain future post halt of the Ukrainian transit. Moldova was the only Contracting Party formally declaring a supply crisis in the recent period. For both Moldova and Ukraine, the reverse flow of the Trans Balkan pipeline increased their supply security.

The Storage Regulation targets were met in 2022, 2023, and 2024, boosting the security of supply of Ukraine and Serbia, the only Contracting Parties with UGS facilities. This had a positive impact on EU Member States and Moldova.

The Energy Community benefited greatly from ENTSOG's inclusion in the Re-Co regular meetings post-Russian invasion of Ukraine. The exchange of information contributed to the higher transparency and increased security of the EU and Contracting Party's supplies.

The Contracting Parties have benefited from the valuable continuous cooperation with the EC JRC, which delivered training and knowledge sharing on risk assessments and drafting of PAPs and EPs.

Review of the Gas Security of Supply Regulation

1. *Energy Community Security of Supply Coordination Group – Gas Subgroup*

The Security of Supply Coordination Group of the Energy Community (SoSG) was established in 2008 by the Procedural Act of the Ministerial Council[3]. The Procedural Act was amended in 2021, incorporating changes stemming from adopting Regulation (EU) 2017/1938. Article 4 of the Regulation determines the further role of the SoSG regarding the security of gas supply in general and in particular in cases of emergency, as well as in assisting the Secretariat in assessing preventive action and emergency plans. The SoSG is divided into two sub-groups: one for Gas and one for Electricity.

The European Commission chairs the Gas Subgroup in cooperation with the Energy Community Secretariat. It comprises representatives of Contracting Parties, authorities and system operators, ENTSOG, traders, Member States[4], and bodies representing industries and consumers. The Group, where appropriate, coordinates the national measures in a crisis.

After the Gas Security of Supply Regulation was transposed, the Group was convened 15 times. In particular, the Gas Subgroup discussed the latest developments regarding the security of gas supply in the context of the Russian invasion of Ukraine and subsequent gas supply disruptions. In addition, the Storage Regulation was negotiated, and experience on best practices for national preventive and emergency measures was shared. The Group regularly reported to other institutional bodies of the Energy Community, such as the Ministerial Council, Permanent High-Level Group, and the Gas Forum.

2. *Infrastructure standard*

Article 5 of the Gas Security of Supply Regulation provides that Contracting Parties shall ensure that in case of a disruption of the single largest infrastructure (N-1), the total gas demand can be satisfied during a day of exceptionally high gas demand. This includes an

[3] https://www.energy-community.org/legal/procedural-acts.html

[4] In line with Article 2 of Procedural Act 2008/02/MC-EnC as amended by the Procedural Act 2021/03/MC-EnC, the Member States of the European Union may participate in the Security of Supply Coordination Group with regard to all matters with which they are concerned

obligation to enable permanent physical bi-directional capacity on all interconnectors between Contracting Parties unless an exemption is granted.

This provision is not bindingfor Bosnia and Herzegovina and Georgia. The exception for Georgia shall cease to apply once it has at least one interconnector with other Parties and gas storage facilities or an LNG facility on its territory. The exception shall cease to apply to Bosnia and Herzegovina once it has gas transit to other Parties and more than 5 % of total primary energy consumption from gas. The adapted Gas Security of Supply Regulation exempted the interconnector between Serbia and Bosnia and Herzegovina from obligations to enable permanent physical capacity to transport gas. Most of the Contracting Parties satisfy the N-1 formula. In different scenarios, Contracting Parties calculate different N-1 values.

As described in the introduction, several Contracting Parties have already increased the infrastructure standard by enhancing firm reverse capacities (Moldova, Ukraine) and finalising new interconnectors (Serbia, Moldova) or will have it increased (North Macedonia) once the ongoing constrution of the interconnector with Greece is finalised.

3. *Gas Supply standard and protected customers*

Article 6 of the Gas Security of Supply Regulation sets the supply standard. The Contracting Parties must ensure the gas supply to protected customers under pre-defined circumstances, imposing measures to gas undertakings. Protected customers, as defined under Article 2(5), include households. Furthermore, Contracting Parties may, under certain conditions, include (1) SMEs, (2) essential social services, and (3) district heating.

Only Moldova and Georgia fully transposed the supply standard. Moldova included in the definition of protected customers combined heat and power plants and/or heat plants connected to the natural gas transmission or distribution network, supplying heat to the centralised heating supply system or supplying heat to protected (households and essential services) consumers, provided that they cannot operate on fuels other than natural gas.

4. *Risk assessments*

To prepare for possible security of supply risks, the Gas Security of Supply Regulation establishes an architecture of risk assessments on a national level without setting regional risk groups, as laid out in Article 7 and Annex V of the Regulation.

The first national risk assessments had to be conducted by 1 January 2024 and should be updated every four years. Only Moldova and Georgia managed to conduct a risk assessment in line with the Regulation in 2024. To the Secretariat's best knowledge, Ukraine conducted a risk assessment in cooperation with JRC, however, without submitting it as required under the Regulation.

Serbia, Bosnia and Herzegovina, and North Macedonia did not perform risk assessments.

Risk assessments are preconditions for PAPs and EPs and are of utmost importance for risk preparedness for the next winter and subsequent years.

Omitting regional groups and regional risk assessments has reduced the burden on the competent authorities, which struggle with sufficient administrative capacity. However, a lack of cooperation in risk assessments impacts the adequacy and comprehensiveness of PAPs and EPs.

5. *Preventive Action Plans and Emergency Plans*

The PAPs aim to prevent crises from materialising and are based on national risk assessments. At the same time, EPs indicate the procedures, responsibilities, and measures to be taken during a crisis, as defined for the Energy Community by Articles 8, 9, and 10 and Annexes VI and VII of the Gas Security of Supply Regulation.

The Secretariat concurs with the European Commission's report[5] and would stress the need to consider the following points that the Gas Security of Supply Regulation does not currently require:

- The progress made in the diversification efforts as part of the description of the national gas system, while supply diversification is one of the basic cornerstones in ensuring the security of supply as proven in the phase-out of Russian gas after February 2022. Alternatively, this could be facilitated via a reinforced information exchange based on Article 14.
- An estimate of the changing breakdown of gas consumption and descriptions of interlinks between energy sectors, including renewable gas production.

The solidarity provisions are not adopted for the Energy Community, nor are Contracting Parties included within the EU solidarity. Still, Moldova and Ukraine were invited to the solidarity test ('dry run' exercise) performed jointly by the European Commission, Member States, and ENTSOG in November 2024. This confirmed the important role of the EPs in ensuring a quick and efficient response to an emergency regarding the borders and underlying the indispensable value of cooperation. It also served as an important check of the measures that could have cross-border impacts, such as those restricting cross-border flows or capacities.

From the provided PAPs, the most essential missing points were:

(1) Clear links between critical scenarios determined by Risk assessment and mitigating preventive measures
(2) details on the stakeholder consultation.
(3) insufficient assessments of the impact of preventive measures on the economy, the internal market, consumers, and the environment.

The EPs were more concise documents, but one drawback is the lack of quantification of the measures' impact.

6. *Declaration of a crisis*

One of the core provisions of the Gas Security of Supply Regulation is the establishment of different crisis levels in Article 11, which defines the following three national crisis levels: (1) early warning, (2) alert and (3) emergency. Whilst these are defined in the adopted EPs, in some cases, the ambiguity between national general emergency procedures and those established in the Gas Security of Supply Regulation created uncertainty. The Gas Security of Supply Regulation however prevails as the Contracting Parties are under and obligation to transpose it.

[5] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A572%3AFIN

The Secretariat verifies if the crisis declaration is justified and if the measures comply with those in the EPs.

Conclusion

The Gas Security of Supply Regulation was incorporated into Energy Community law at the end of 2021, making a big leap from the obsolete framework 15 years ago. The Contracting Parties are still in the process of transposing all the elements therein, with only a few completing their transposition. The Gas Storage Regulation was adopted in the Energy Community in the same year as in the EU.

The Contracting Parties are obliged to implement the acquis on energy in compliance with the timetable for the implementation of those measures[6]. In case of failure by a Party to comply with the Treaty obligation within the required period, it may be brought to the attention of the Ministerial Council by a reasoned request of any Party, the Secretariat, or the Regulatory Board[7]. If the Ministerial Council determines that a breach of obligations has occurred, the concerned Party may face adverse consequences, particularly if the breach is deemed serious and persistent[8].

The main difference between the EU's original Regulation and the one that was incorporated into the Energy Community is that there is no regional dimension. This has significantly reduced the administrative burden on the Contracting Parties, on the one hand, but it has deprived them and their neighbours, Member States, and Contracting Parties of communicating the draft risk assessments and preventive action and emergency plans. Communication of the drafts in advance would undeniably improve their outcome. Against these facts, the inclusion of the regional dimension needs to be assessed.

Furthermore, the adapted Regulation in the Energy Community does not contain any solidarity provisions due to EU Member States' concerns about the potential implications of solidarity towards the Contracting Parties. Indeed, the negotiations of the solidarity agreements in the EU took some time initially. Once concluded, however, the arrangements undeniably provided for higher supply security in the countries that have concluded such agreements. Considering changes in the gas markets, particularly in diversification of the routes and sources and different gas flow patterns that happened since 2022, it would make sense to reconsider the solidarity provisions as a part of the Energy Community acquis to boost the security of the Contracting Parties and deliver more security to the neighboring Member States. In this respect, the Contracting Parties can make a difference and provide solidarity to Member States as well. This revision would align with the intentions outlined in the EU Security of Supply Regulation, inviting close cooperation between the EU Member States and the Contracting Parties to ensure efficient crisis management when preventing, preparing for, and handling a gas crisis.

The gas supply structure was tested in recent years – the single event of Russia's unjustified and unprovoked military invasion of Ukraine ignited the energy crisis, which in turn brought a

[6] Article 10 of the Treaty establishing Energy Community

[7] Ibid, Article 90

[8] Ibid, Article 92

plan to phase out the EU's dependence on Russian energy imports. REPowerEU was one of the responses, with the involvement of the Energy Community to the extent possible.

Several identified areas could be improved for the Energy Community to increase the security of supply for both the Member States and Contracting Parties.

To have the EU energy security architecture objectives accomplished – the most notable of them diversification of energy sources, suppliers, and routes, phase-out of Russian fossil fuel supply, optimizing the existing infrastructure, strengthening the use of energy storage (electricity, gas, liquid fuels, heat) for energy security and energy transition and decarbonisation - several considerations must be borne in mind:

- Closer cooperation between EU Member States and the Energy Community Contracting Parties, including improving the interconnectivity between their gas systems, is crucial for enhancing energy security in the region. In line with the options given in the newly adopted (the so-called Fourth Gas package), the regulatory frameworks on the interfaces between the Member States and Contracting Parties should be identical to create a better, bigger, and more integrated market and deliver on the security of supply. The Energy Community and the Secretariat gained profound experience and knowledge in this topic and are ready to elaborate further solutions to reach such a goal. Against such background, the regional cooperation in delivering risk assessments, and preventive and emergency plans should be considered.

- Gas storages play an essential role in enhancing supply security, smoothing price hikes, mitigating demand and supply shocks, and providing flexibility to markets. The Storage Regulation, i.e., amendments to the Gas Security of Supply Regulation regarding storage obligations, has been one of the crucial policy tools in mitigating amplitudes in gas supply changes and protecting the population from the energy crises in the last three winter seasons. This Regulation should be prolonged to stabilize the EU and Energy Community's gas markets. In that regard, Ukraine can play a significant role in Europe's energy security with its 31bcm underground storage capacity by providing additional flexibility to the EU. This should be taken into account in the case of the Storage Regulation extension. If the EU MSs store gas in a Contracting Party to the Energy Community under the same regulatory framework, the stored gas quantities therein should be part of their storage targets. At the Energy Community level, the timely prolongation of the storage-related provisions must be ensured to maintain continuity and predictability for the market participants.

- To deliver on the REPowerEU Plan objectives (saving energy and addressing high energy prices, diversifying energy supply, and accelerating the further clean energy transition, the ultimate goal being to end dependency on Russian fossil fuel imports at the latest by 2027), the Energy Community should also be eligible for targeted assistance from EU funds, such as Recovery and Resilience Facility. One of the examples of such assistance is the recent case of Moldova, in which the EU support

served to compensate for the energy price shocks in the last years and ongoing winter in particular.[9]

[9] https://enlargement.ec.europa.eu/letter-intent-between-government-republic-moldova-and-european-commission_en