



EUROPEAN COMMISSION

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Dear Mr Sobotka,

The European Commission welcomes the Senate Resolution of the Parliament of the Czech Republic on the proposal for a regulation concerning the measures to safeguard security of gas supply and repealing Directive 2004/67/EC {COM(2009)363} and appreciates the interest expressed by the Czech Senate in this issue which is of highest importance for the energy security and well being of European citizens.

The proposed Regulation fully allows the gas market characteristics of the various Member States be taken into account in order to respect the principle of subsidiarity. The proposed Regulation leaves to the Member States the choice as to the adequate measures for crisis prevention and its mitigation. Furthermore, it sets common infrastructure and supply standards leaving the Member States the flexibility to meet them through various means (i.e. development of infrastructure, cooperation at regional level and demand side responses). It thus sets a common reference for all Member States with regard to security of gas supply, which is crucial to ensure a level playing field in the internal market and the basis of any solidarity mechanism. The European Commission believes that this common reference can only be set by means of a Regulation with clearly defined scope and conditions. A Directive, which allows the Member States wide discretion to set the standards, would not be suitable to achieve this common reference. The shortcomings of a directive are shown in the Commission's report on implementation of the Directive 2004/67/EC that the proposed regulation aims to replace. Furthermore a Regulation is directly applicable in Member States

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and therefore preferred over a Directive which requires lengthy transposition into national legal framework.

With regard to the legal basis: the initially proposed Art. 95 of the EC Treaty placed the main emphasis on ensuring the effective functioning of the internal market during disruptions in gas supply as in normal times, so as to enable natural gas undertakings to supply their customers for as long as possible. Following the entry into force of the Treaty on the Functioning of the European Union (TFEU) the Commission has proposed Article 194 of TFEU as the new legal basis for the proposal. This article provides for specific competences in the sphere of energy as regards the functioning of the internal market and also explicitly as regards ensuring the security of energy supply in the Union.

The proposed infrastructure standard (N-1) responds to our analysis on possible disruption scenarios and the lessons learned from the January 2009 crisis. The N-1 infrastructure standard should ensure that the remaining capacities of gas infrastructures, in the event of a failure of the largest one, are sufficient to satisfy the demand of a given area, also including exceptionally high demand resulting from weather conditions. This capacity should be sustained over a period of 60 days. The European Commission firmly believes that a lower standard will not sufficiently guarantee the security of supply of European citizens.

The need for decreasing the threshold for Union emergency up to 10% is also linked to the experience of the last crisis. The current threshold (disruption of 20% of Union gas imports) has been considered too high, particularly in the light of accession of new Member States: a disruption, small at the EU scale, may be significant for individual Member States (or a region), and may thus already require a Union response. The current threshold implies a disruption of half of Russian or all of Norwegian or all of Algerian gas imports to the EU. Therefore, the proposed 10% threshold seems more appropriate, also taking into account the expected increase of imports in the decade to come.

The European Commission takes note of the opinion and suggestions of the Senate of the Parliament of the Czech Republic with regard to the proposed legal instrument, its legal basis, the thresholds for N-1 and for being able to declare Union Emergency. Those issues are at the core of the Commission's proposal and were broadly discussed with the main stakeholders, the gas industry, the consumer representatives and the Member States. The discussions continue within the framework of the legislative process in the Council and the European Parliament,

with the aim to conclude them as soon as possible in order to enhance the ability of the Union to respond to future disruptions in gas supply.

I am looking forward to further developing our policy dialogue,

Yours sincerely,

Margot WALLSTRÖM
Vice-President of the European Commission