



EUROPEAN COMMISSION

Brussels, 25/05/2010
C/2010/3266

Dear Chairman,

The European Commission would like to thank the Parliament of the Republic of Lithuania for its opinion concerning the document {COM(2009)363} "Proposal for a Regulation of the European Parliament and of the Council concerning measures to safeguard security of gas supply and repealing Directive 2004/67/EC {SEC(2009)977} {SEC(2009)978} {SEC(2009)979} {SEC(2009)980} {SEC(2009)981}".

In line with the Commission's decision to encourage national Parliaments to react to its proposals to improve the process of policy formulation, we welcome this opportunity to respond to your comments. I enclose the Commission's response that I hope you will find a valuable contribution to your own deliberations.

I look forward to developing our policy dialogue further in the future.

Yours sincerely,

/-/ Maroš Šefčovič
Vice-President of the European Commission

Mr Česlovas Vytautas STANKEVIČIUS
Chairman of the Committee on
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Parliament of Lithuania
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COMMENTS OF THE EUROPEAN COMMISSION ON THE OPINION OF THE LITHUANIAN PARLIAMENT ON THE PROPOSAL FOR A REGULATION CONCERNING THE MEASURES TO SAFEGUARD SECURITY OF GAS SUPPLY AND REPEALING DIRECTIVE 2004/67/EC {COM(2009)363}.

The European Commission welcomes the opinion by the Committee on European Affairs of the Seimas of the Republic of Lithuania of 15 January 2010 on the proposal for a Regulation concerning the measures to safeguard security of gas supply and repealing Directive 2004/67/EC. The European Commission appreciates the interest expressed by the Lithuanian Parliament and in particular by the Committee on European Affairs in this issue, which is of highest importance for the energy security and the well being of European citizens.

Important objectives of European energy policy are the diversification of energy sources, routes and counterparties, as well as the improvement of interconnections in order to decrease energy dependency and to complete the internal energy market. These principles are at the heart of the Second Strategic Energy Review, including the proposal for the Baltic Energy Market Interconnection Plan (BEMIP) and the subsequent Commission proposal for a Regulation revising the legal framework for security of gas supply in the EU.

For the latter, following the entry into force of the Treaty on the Functioning of the European Union (TFEU), the legal basis has been amended to Article 194, paragraph 2 of the TFEU. This article provides for a specific legal basis for measures in the field of the Union's energy policy in order to ensure the functioning of the energy market and the security of supply in the Union and to enhance interconnections. The Union's measures shall be adopted in this respect in a spirit of solidarity between Member States. The proposed Regulation aims to set a new and comprehensive legal framework for crisis prevention and crisis management in the field of gas supply. It includes an infrastructure standard (N-1) that responds to our analysis on possible disruption scenarios and to the lessons learned from the January 2009 crisis. The proposed Regulation also addresses the need for a more ambitious development of gas infrastructure at national and regional levels to ensure more diversification and interconnectivity - main prerequisites for a fully functioning internal gas market in the EU. The supplies should be allocated where they are most needed, based on the supply and demand signals. Investment in gas infrastructure is expected to come from various actors and sources, both public and private.

The Regulation also sets the framework for cost recovery of investments (Art. 6), including cross-border investments, but does not mandate a certain financing. The user-pays-principle is the main approach, but also the tax-payer-principle may be applied. Projects contributing to the security of supply could however receive financial support in the framework of dedicated EU policies.

In the next 12 months, the Commission will present a new Energy Infrastructure Instrument revising the TEN-E policy and following up on the priority infrastructure areas identified in the Second Strategic Energy Review, including the Baltic Energy Market Interconnection Plan (BEMIP) and the Green Paper on the future of energy networks. This will help to maintain the ambitious pace of implementation of new infrastructure projects, such as the BEMIP, catalysed by the financial stimulus of the European Energy Programme for Recovery.

The Treaty on the Functioning of the European Union commits the European Union to an energy policy designed in the "spirit of solidarity". The proposed Regulation is based on the principles of responsibility and solidarity, setting common infrastructure and supply standards for the Member States. In particular, it is their responsibility to guarantee that the gas network is designed to ensure that, in the event of a failure of the largest infrastructure (N-1 rule), the total demand of the Member State will be satisfied. The draft Regulation leaves Member States the flexibility to meet the standards through various means (i.e. development of infrastructure, cooperation at regional level and demand side responses), thus respecting the principle of subsidiarity.

As underlined in Article 6 of Directive 2009/73/EC and Article 12 of Regulation (EC) No. 715/2009, regional cooperation is a major expression of the principle of solidarity and is also an underlying concept of this Regulation. It includes the establishment of the risk assessment (Article 8); the Preventive and Emergency Action Plans (Articles 4, 5 and 9), the infrastructure and supply standards (Articles 6 and 7) and the provisions for the Union and regional emergency responses (Article 10). This framework will allow for the regional cooperation mechanisms that are outlined in the opinion of the Lithuanian Seimas.

At Union level, the draft Regulation requires the Commission to ensure the consistency of these plans, the coordination of all measures taken by the Member States, the respect of solidarity and the safeguard of the internal energy market. These provisions allow the Commission to react appropriately to various situations, in particular in the most vulnerable regions. The Commission has the flexibility to provide for a range of criteria for the declaration of a Union emergency. Based on the experience of the last crisis and in the light of the accession of new Member States, the threshold for Union emergency has been lowered from the current 20% to 10% disruption of Community gas imports. The draft Regulation also suggests a crisis management team, composed of national crisis managers and a monitoring taskforce to be deployed outside the EU if needed.

The proposed Regulation does not provide for Union preventive action and Union emergency plans. The Commission does not believe in a top-down approach and instead favours responses based on national and regional plans. As suggested in the opinion of the Seimas, when a monitoring report is required under article 14, the Commission will be able to assess the need for further measures aimed at enhancing the security of gas supply of the EU.

The European Commission takes note of the opinion and suggestions of the Seimas of the Republic of Lithuania with regard to the financing of infrastructure, regional cooperation, the interconnection of isolated regions and markets and the role of the Commission, as well as the declaration of the Community emergency. These 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.