

# **Opinion of the Portuguese House of Representatives**

## **COM(2016)52 – Security of Gas supply**

### **TRANSLATION**

#### **PART I — INTRODUCTION**

In accordance with Article 7 of Law No 43/2006 of 25 August, on the monitoring, examination and pronouncement by the Assembly of the Republic on matters relating to the construction of the European Union, as amended by Law No 21/2012 of 17 May, as well as the methodology of scrutinising European initiatives approved on 8 January 2013, the European Affairs Committee received the proposal for a Regulation of the European Parliament and of the Council concerning measures to safeguard security of gas supply and repealing Regulation (EU) No 994/2010 (COM(2015)52)

The above-mentioned initiative was forwarded to the National Defence Committee and to the Committee for Economic Affairs, Innovation and Public Works, in view of its subject, which analysed it and approved the reports annexed to this opinion and forms an integral part thereof.

#### **PART II — GROUNDS**

1 ) This initiative concerns the proposal for a Regulation of the European Parliament and of the Council concerning measures to safeguard security of gas supply and repealing Regulation (EU) No 994/2010.

2) It must first of all be reminded that the natural gas remains an essential component in the energy supply of the Union. Much of the gas is imported into the Union from third countries.

3) In this regard, the Commission notes that Regulation (EU) No 994/2010 of the European Parliament and of the Council of 20 October 2010 concerning measures to safeguard security of gas supply, has already had a significant positive impact on the security of gas supply of the Union both in terms of preparation and mitigation of the problems.

It is therefore mentioned that Member States are better equipped to address a supply crisis, seeing as how shall draw up plans containing measures to prevention and emergency and are also better protected as they need to comply with a number of obligations in relation to the ability of infrastructure and supply of gas.

4) In conformity with the obligation of monitoring provided for in Article 14 of Regulation No 994/2010, in 2014 the Commission produced a report assessing the implementation of the Regulation and possible ways to improve safety.

The report provides an analytical assessment of a range of instruments referred to in regulation, focusing on the way Member States have implemented and how each contributed to improving the

security of supply of the Union and preparedness highlighting areas where certain improvements in the basic Regulation could further enhance security of supply of the Union.

5) It is therefore referred to in the proposal, there are three levels of responsibility for security of gas supply.

It is thus on natural gas undertakings, subject to market mechanisms have primary responsibility for gas supply. In cases of market failure in a certain Member State, the competent authorities of that Member State and of the Member States in the region are responsible for taking the appropriate measures to ensure the gas supply to the protected customers. At another level, the European Commission ensures overall coordination and will ensure that the measures taken are consistent with each other.

6) State that a fully functioning internal gas market is the best guarantee to ensure the security of energy supply throughout the Union and to reduce the exposure of individual Member States to the harmful effects of supply disruptions.

Where the security of supply of a Member State is threatened, there is a risk that the measures drawn up unilaterally by that Member State be able to call into question the proper functioning of the internal gas market and harm the supply of gas to customers in other Member States.

7) The Commission notes, in this regard, that the internal gas market to function even in the face of a shortage of supply, it is necessary to make provision for procedures for solidarity and coordination in the response to supply crises, both concerning preventive action and the reaction to concrete disruptions of supply.

8) It is therefore proposed greater regional coordination in certain principles and standards set at Union level.

The proposed approach is that the Member States should cooperate actively in the framework of their regions when making their regional evaluations of risks. Further stresses that regional cooperation should be improved, since a disruption of gas supply can easily affect several Member States at the same time. Risk assessments and national plans are not the most suitable way to deal with this type of situations.

9) This initiative therefore provides transparent mechanisms, in a spirit of solidarity, for the coordination of planning and emergency response at the level of Member States, regions and of the Union.

10) The Commission underlines also the importance of ensuring that all necessary steps are taken to safeguard the uninterrupted supply of gas across the Union, particularly to the protected customers in the event of severe climate conditions or of gas supply disruptions. These should be achieved using the measures which are more cost-effective and in a way that does not distort in energy markets.

11) It is therefore to point out that, in a spirit of solidarity, the guiding principle of this initiative should be the regional cooperation, involving public authorities and natural gas undertakings, in order to identify the relevant risks in each region, to maximise the benefits resulting from measures

coordination to mitigate such risks and to apply the most cost-effective measures for consumers in the Union.

In this connection, the Commission observes that strengthening regional cooperation between Member States involves neither the creation of new institutional structures.

12) The objective is therefore to ensure that all Member States establish appropriate instruments to prepare for situations of shortages of gas arising from a supply disruption or exceptionally high demand, and for managing their effects.

13) it should also be noted that with regard to mechanisms for joint purchases, this initiative makes it clear that Member States and natural gas undertakings are free to exploit the potential gains from collective purchase of natural gas to address situations of shortage of supply. These arrangements should be in accordance with WTO and EU rules on competition, namely with the Commission's Guidelines on horizontal cooperation agreements.

14) Finally, stated that, in accordance with the text of the initiative, and in order to allow for a swift Union response to changing circumstances related to security of gas supply, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the amendment of the Regions and models for the assessment of risks and for the plans. When preparing and drawing-up delegated acts, should ensure that the relevant documents are transmitted simultaneously to the European Parliament and the Council in good time and proper manner.

In the light of the provisions made in the proposal, the following must be considered:

a) of the legal basis

This initiative proposes measures to safeguard security of gas supply in the European Union. Therefore, the legal basis for this Regulation is Article 194 TFEU.

(b) of the principle of subsidiarity

The growing interconnectedness of gas markets of the Union and the "corridor approach" in order to allow for reverse flows in gas interconnections require coordinated action. Without such coordination, national measures in the field of security of supply may adversely affect other Member States or security of supply at Union level.

The risk of a major disruption of gas supply to the Union is not limited by national borders and could affect several Member States either directly or indirectly.

It notes that the necessity for the Union's action is settled, given is certain that national approaches result sub-optimal measures and further impact of a crisis. A measure taken in one country may lead to a shortage of gas in neighbouring countries. (for instance, restrictions imposed by Bulgaria in February 2012 on the export of electricity have negatively affected the gas and electricity sectors in Greece).

Member States acting alone cannot achieve satisfactorily the aim of this initiative, namely to ensure the security of gas supply in the Union. Considering the scale or the effects of the action, this objective can better be achieved at Union level. The Union may therefore adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union.

It is therefore for the principle of subsidiarity.

### **PART III — OPINION**

In view of the information provided above and in the light of the reports made by the relevant committees, the European Affairs Committee is of the opinion that:

- 1 — This initiative does not breach the principle of subsidiarity, insofar as the objective will be achieved more effectively by means of Union action.
- 2 — in the scrutiny process as having been completed.

São Bento Palace, 19 April 2016