



Parlamentul României

Senat

Bucharest, 15 February 2018

Courtesy translation

OPINION of the ROMANIAN SENATE

on the PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE 2009/73/EC CONCERNING COMMON RULES FOR THE INTERNAL MARKET IN NATURAL GAS COM (2017) 660 final

The Romanian Senate, pursuant to art. 67, art. 148 (2) and (3) of the Romanian Constitution and the Protocol no. 1 annexed to the Treaty of Lisbon amending the Treaty on European Union and the Treaty on the functioning of the European Union, ratified by Law no. 13/2008, has examined the **Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2009/73/EC concerning common rules for the internal market in natural gas - COM (2017) 660 final.**

Considering the Report of the Committee for European Affairs, **the plenum of the Senate**, during its session on 12 February, issued an OPINION, as follows:

(1) We note that:

- the changes introduced by this proposal for a directive will ensure that the rules applicable to gas pipelines connecting two or more Member States also apply to natural gas pipelines to and from third countries of the Union;
- the proposed changes will establish the coherence of the legal framework within the Union, while avoiding distortions of competition within the Union's internal energy market;
- the changes will increase transparency and ensure legal certainty as regards the legal regime applicable to market participants, in particular to gas infrastructure investors and network users;
- The applicability of Directive 2009/73 / EC to gas pipelines to and from third countries remains confined to the territorial boundaries of Union jurisdiction;

(2) The proposal for a directive is based on Article 194 of the Treaty on the Functioning of the European Union (TFEU), which has strengthened and clarified the EU's powers in the field of energy. Under Article 194 TFEU, the main objectives of the EU's energy policy are: to ensure the functioning of the energy market; to ensure the security of energy supply in the Union; to promote energy efficiency and energy saving, as well as the development of new and renewable forms of energy; and to promote the interconnection of energy networks;

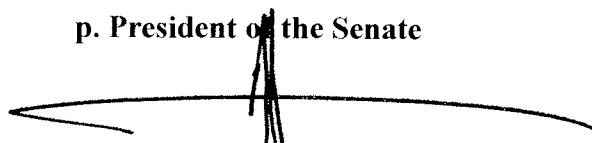
(3) The proposal for a directive complies with the subsidiary principle because the proposed amendments to the Gas Directive are necessary to achieve the objective of achieving an integrated EU gas market that cannot be equally effective at national level due to fragmented national rules. It has been proven that isolated national approaches have led to delays in the implementation of internal energy market rules, resulting in incompatible and inadequate regulatory measures, useless duplication of interventions and delays in correcting market failures. In addition, pipelines to and from third countries in most cases have capacity that is capable of affecting the internal gas market and security of supply in several Member States;

(4) This proposal respects the principle of proportionality because the proposed changes are strictly aimed at what is indispensable for making the necessary progress for the internal market, while leaving adequate competences and responsibilities to the Member States, national regulatory authorities and national actors. They include the possibility of derogations for existing infrastructure (namely pipelines to and from third countries that are completed before the entry into force of this Directive) to take into account already existing complex legal structures which may require a case-by-case approach, provided that the derogation is not detrimental to competition, the efficient functioning of the market or the security of supply in the Union;

(5) We appreciate that:

- Gas infrastructure projects must be assessed in accordance with European legislation that is based on a solid, transparent, non-discriminatory and functional regulatory framework in relation to other third countries;
- As regards offshore pipelines, the Directive should be applicable in the territorial waters and exclusive economic zones of the Member States;
- In order to take account of the previous lack of specific Union rules applicable to natural gas pipelines to and from third countries, Member States should be able to grant derogations from certain provisions of Directive 2009/73 / EC to such pipelines which are completed on the date of entry into force of this Directive;
- Romania should contribute to the objectives of the Energy Union, as defined in the Framework Strategy for a Sustainable Energy Union with a prospective policy on climate change and those stemming from the obligations assumed in the Third Energy Package adopted by the European Parliament, context in which it is intended to develop a coherent and unitary legislative framework with a view to completing the internal energy market and enhancing the energy security of the Member States of the European Union.

p. President of the Senate



Adrian ȚUTUIANU