



20.6.2016

REASONED OPINION OF THE NATIONAL PARLIAMENT ON SUBSIDIARITY

Subject: Reasoned opinion of the National Parliament of the Republic of Bulgaria on the proposal for a regulation of the European Parliament and of the Council concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010 (COM(2016)0052 – C80035/2016 – 2016/0030(COD))

Under Article 6 of Protocol No 2 on the application of the principles of subsidiarity and proportionality, national parliaments may, within eight weeks of the date of transmission of a draft legislative act, send the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why they consider that the draft in question does not comply with the principle of subsidiarity.

The National Parliament of the Republic of Bulgaria has forwarded the reasoned opinion attached here on the aforementioned proposal for a regulation.

Under European Parliament's Rules of Procedure the Committee on Legal Affairs is competent in matters concerning the compliance with the principle of subsidiarity.

CHAIRMAN
REPUBLIC OF BULGARIA
NATIONAL ASSEMBLY

TO
MARTIN SCHULZ
PRESIDENT OF THE
EUROPEAN
PARLIAMENT

SUBJECT: Reasoned opinion of the National Parliament of the Republic of Bulgaria on the proposal for a Regulation of the European Parliament and of the Council concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010

Dear Mr Schulz,

At its sitting of 20 April 2016, the Committee on European Affairs and Oversight of the European Funds (CEAOEF) within the National Parliament of the Republic of Bulgaria discussed the proposal for a regulation of the European Parliament and of the Council concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010.

The CEAOEF members welcomed the initiative of the European Commission for the revision of Regulation (EU) No 994/2010 with a view to increasing the cooperation between the Member States and safeguarding the security of gas supply. At the same time, after they examined the draft regulation carefully, taking into account the Framework Position of the Council for European Affairs within the Council of Ministers of the Republic of Bulgaria, together with the reports of the Committee on economic policy and tourism and the Energy Committee within the National Parliament, the CEAOEF members agreed that the powers given to the National Parliament under Article 6 of Protocol No 2 to the Treaty on the Functioning of the European Union needed to be by delivering a reasoned opinion (enclosed here) on the aforementioned proposal for a regulation.

Within the context of the established procedure I hereby submit to you the approved report and the reasoned opinion, reflecting the position of the Bulgarian Parliament on the topic.

Annex: According to the text

REASONED OPINION
OF THE NATIONAL PARLIAMENT
OF THE REPUBLIC OF BULGARIA

REPUBLIC OF BULGARIA
FORTY-THIRD NATIONAL ASSEMBLY
COMMITTEE ON EUROPEAN AFFAIRS AND OVERSIGHT
OF THE EUROPEAN FUNDS

R E P O R T

SUBJECT: Proposal for a Regulation of the European Parliament and of the Council concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010 – item 16 of the National Parliament’s Annual work programme on European affairs for 2016 and Framework Position No 602-00-20 of the Republic of Bulgaria thereon, adopted by the Council of Ministers on 1 April 2016.

I. At its sitting of 20 April 2016, the Committee on European Affairs and Oversight of the European Funds (CEAOEF) within the National Parliament of the Republic of Bulgaria discussed the proposal for a regulation of the European Parliament and of Council concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010 – included as item 16 in the National Parliament’s Annual work programme on European affairs for 2016.

The following attended the CEAOEF meeting: Mr Zhecho Stankov – Deputy Minister for Energy, Mrs Albena Trasieva – Head of the International Cooperation in the Energy Sector Department of the Energy Policies and International Cooperation Directorate of the Ministry of Energy, along with Mr Tsvetan Vladikov, Mrs Dennitsa Nedeva and Mrs Mariana Vasileva – state experts at the Coordination on EU Affairs Directorate of the Administration of the Council of Ministers.

II. The purpose of this draft regulation is to ensure that all Member States put in place appropriate tools to prepare for and manage the effects of a gas shortage caused by a disruption in supply or exceptionally high demand. The measures included in the draft regulation provide for better regional cooperation and coordination; detailed obligations and provision of the requisite infrastructure; improved risk assessment and risk prevention; guaranteed gas supply to some categories of consumers (‘protected customers’) even under difficult conditions (supply standard) and introduction of the principle of solidarity between the Member States.

Given the tensions between Ukraine and Russia, the European Commission considers that five years after the adoption of Regulation (EU) No 994/2010, additional measures still need to be adopted to safeguard the security of gas supply in Europe. According to the Commission, the legal basis for the proposed regulation is Article 194 of the Treaty on the Functioning of the European Union (TFEU), which lays down the powers of the Union in the energy sector. In its reasons the Committee states that the risk of major disruption of gas supplies is not restricted by national borders and could affect several Member States, and that a national approach results in sub-optimal measures and can aggravate the impact of a crisis. In this regard and following a detailed assessment of the tools referred to in Regulation (EU)

No 994/2010, and of their implementation by the Member States, the Commission proposes that, as the most cost-effective approach to improving the security of supply across the EU, regional cooperation and coordination should be strengthened.

The draft regulation provides for mandatory regional preventive action plans and emergency action plans, along with regional risk assessments to be drawn up for the different regions (described in Annex I). Those plans will be peer-reviewed and prepared in coordination with the rest of the regions in the Gas Coordination Group and the Commission may require them to be amended before they receive final approval.

According to the new provisions proposed by the European Commission each Member State will take the requisite measures so that in the event of a disruption of the single largest gas infrastructure, the technical capacity of the remaining infrastructure, determined according to the $N - 1$ formula (described in Annex II to the draft regulation), is able to satisfy total gas demand for the calculated area during a day of exceptionally high gas demand which, statistically, could take place once every 20 years. In addition, permanent physical capacity to transport gas in both directions will be enabled on all interconnectors between Member States except in the cases provided for (Article 4(4) and Annex III to the draft regulation).

The changes proposed in the draft regulation are intended to ensure better access to information for both the national competent authorities and the Commission. They will be able to require data from natural gas companies, including contractual information, in the event of an emergency and with due justification. What is more, natural gas companies will be required to notify the respective national competent authority and the Commission of contracts relevant to gas supply security as soon as they have been signed or amended. This concerns long-term contracts which provide more than 40% of annual natural gas consumption in the respective Member State.

No significant change is provided for in the supply standard, which guarantees uninterrupted gas supplies to protected customers for a specific period of time, even when there is a shortage of supplies and/or exceptionally high demand. The category of 'protected customers' will remain and will include all household consumers connected to the gas distribution network, and under specific terms and – at the discretion of the Member States – district heating installations and small and medium-sized undertakings. The draft regulation provides for the mandatory application of the principle of solidarity between Member States. According to that principle, if a Member State is in an emergency situation with no supply to protected customers, gas will not be supplied to customers who do not fall under the category of protected customers in any other Member State which is directly connected to the first one.

III. According to the Framework Position submitted by the Council of Ministers, the Republic of Bulgaria generally supports the proposal for a regulation of the European Parliament and of the Council concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010. At the same time the Republic of Bulgaria will insist on being granted a derogation like Luxembourg, Slovenia and Sweden (Article 4(8)) and Malta and Cyprus (Article 19), given the time and significant financial investments needed to build the requisite infrastructure with a bigger capacity. The Republic of Bulgaria considers that the proposed changes increase the Commission's control over the activity of the participants on the natural gas market. On the one hand, this is against the principles of free and competitive market and on the other hand, it restricts the rights of the Member States in their contractual

relations with third parties. The Republic of Bulgaria expects the proposal for a regulation to result in additional administrative burdens for businesses and/or public administration. Last but not least, the Republic of Bulgaria proposes that some provisions of the draft regulation should be more specific in order to regulate how the obligated parties will be compensated for the obligations to society imposed on them.

IV. The aforementioned proposal for a regulation was reviewed by the Committee on economic policy and tourism (CEPT) at its sitting of 13 April 2016. In its statement CEPT considers that all concerns expressed by the Republic of Bulgaria and reflected in the framework position on the topic are fully justified. CEPT states that adopting the draft regulation will not result in changes in the Bulgarian normative framework but will cause significant administrative and financial burden for the Bulgarian economy.

V. The proposal for a regulation was reviewed by the Energy Committee at the sitting of 14 April 2016. In its statement, the Committee completely supports the Framework Position of the Republic of Bulgaria adopted by the Council for European Affairs within the Council of Ministers.

VI. Having discussed the proposal for a regulation of the European Parliament and of the Council concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010 and having taken into account the opinions of the Committee on economic policy and tourism of the Republic of Bulgaria and the Energy Committee, via the Committee on European Affairs and oversight of the European funds, the National Parliament of the Republic of Bulgaria delivers the following reasoned opinion which will be sent to the European institutions:

1. CEAOEF welcomes the initiative of the European Commission concerning the revision of Regulation (EU) No 994/2010 with a view to increasing the cooperation between the Member States and safeguarding the security of gas supply.

2. CEAOEF expresses concern that, according to the draft, the mandatory coordination between the Member States will take place within regions defined by the European Commission, and that no convincing evidence has been provided to demonstrate that the positions of the different countries are adequately reflected. Should the approach of mandatory regional cooperation be adopted in the future, a number of geographical, political and economic characteristics must be taken into account in constant dialogue with all Member States.

3. CEAOEF considers that the principle of subsidiarity established in Article 5(3) of the Treaty on European Union (TEU) was not met, as the powers of the European Commission to adopt delegated acts according to Article 3(7) of the draft regulation (concerning the composition of the aforementioned regions) are not explicitly laid down in the legislative act (in Article 18 ‘Exercise of the delegation’). This is in contradiction with Article 290(2) of the TFEU.

4. CEAOEF considers that the proposal for a regulation does not comply with the principle of proportionality laid down in Article 5(4) of the TEU because it causes additional administrative and financial burden for both Member States and European Union citizens and thus goes beyond what is needed to achieve the purposes of the draft regulation. For the

Republic of Bulgaria the obligation to set up new infrastructure with greater capacity will cause an excessively high financial burden.

5. Last but not least, according to CEAOEF, another measure which goes beyond what is needed to achieve the desired goal is the power of the European Commission to start infringement proceedings against a Member State whose competent authority has the power to receive or request a contract if the natural gas company does not comply with the obligation to notify.

In the light of the above, and following the CEAOEF discussion, the report and the reasoned opinion thereto were approved unanimously with 14 votes in favour.

CHAIR OF THE COMMITTEE
ON EUROPEAN AFFAIRS AND
OVERSIGHT OF THE EUROPEAN FUNDS:

SVETLIN TANCHEV