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*Plenary sitting*

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**A8-0143/2018**

11.4.2018

**\*\*\*I**  
**REPORT**

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)0660 – C8-0394/2017 – 2017/0294(COD))

Committee on Industry, Research and Energy

Rapporteur: Jerzy Buzek

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▯ symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**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)0660 – C8-0394/2017 – 2017/0294(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2017)0660),
  - having regard to Article 294(2) and Article 194(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0394/2017),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the French Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,
  - having regard to the opinion of the European Economic and Social Committee of ...<sup>1</sup>,
  - having regard to the opinion of the Committee of the Regions of ...<sup>2</sup>,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Industry, Research and Energy (A8-0143/2018),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### **Proposal for a directive**

#### **Recital 3**

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<sup>1</sup> ...  
<sup>2</sup> ...

*Text proposed by the Commission*

(3) This Directive seeks to address the remaining obstacles to the completion of the internal market in natural gas resulting from the non-application of Union market rules to gas pipelines to and from third countries. The amendments introduced by this Directive will ensure that the rules applicable to gas transmission pipelines connecting two or more Member States, are also applicable to pipelines to and from third countries within the Union. This will establish consistency of the legal framework within the Union while avoiding distortion of competition in the internal energy market in the Union. It will also enhance transparency and provide legal certainty as regards the applicable legal regime to market participants, in particular investors in gas infrastructure and network users.

*Amendment*

(3) This Directive seeks to address the remaining obstacles to the completion of the internal market in natural gas resulting from the non-application of Union market rules to gas pipelines to and from third countries. The amendments introduced by this Directive will ensure that the rules applicable to gas transmission pipelines connecting two or more Member States, are also applicable to pipelines to and from third countries within the Union ***that have a significant impact on the Union's internal market in natural gas***. This will establish consistency of the legal framework within the Union ***as well as provide for necessary reflection of strategic interests of all Member States and the Union's overall security of supply and energy independence***, while avoiding distortion of competition in the internal energy market in the Union. It will also enhance transparency and provide legal certainty as regards the applicable legal regime to market participants, in particular investors in gas infrastructure and network users.

## **Amendment 2**

### **Proposal for a directive**

#### **Recital 4**

*Text proposed by the Commission*

(4) To ***take account of the previous lack of specific*** Union rules ***applicable to*** 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 ***at*** the date of ***entry into force*** of this Directive. The relevant date for the application of unbundling models other than ownership unbundling should be adapted for gas pipelines to and

*Amendment*

(4) In order to ***complete the Energy Union and to apply its rules to*** gas pipelines to and from third countries, ***in full accordance with Union legislation***, Member States should be able to grant derogations from certain provisions of Directive 2009/73/EC to such pipelines which ***were*** completed ***before*** the date of ***adoption*** of this ***proposal, only after a recommendation from the Commission, in particular as regards the competition on,***

from third countries.

*and the functioning and the effectiveness of, the internal energy market, security of supply and diversification of energy sources and suppliers.* The relevant date for the application of unbundling models other than ownership unbundling should be adapted for gas pipelines to and from third countries.

### Amendment 3

#### Proposal for a directive Recital 5

*Text proposed by the Commission*

(5) The applicability of Directive 2009/73/EC for gas pipelines to and from third countries remains confined to the territorial limit of Union's jurisdiction. As regards offshore pipelines, it should be applicable in the territorial waters and exclusive economic zones of the Member States.

*Amendment*

(5) The applicability of Directive 2009/73/EC for gas pipelines to and from third countries remains confined to the territorial limit of Union's jurisdiction. As regards offshore pipelines, it should be applicable in the territorial waters and exclusive economic zones of the Member States, *in accordance with the United Nations Convention on the Law of the Sea (UNCLOS).*

### Amendment 4

#### Proposal for a directive Recital 5 a (new)

*Text proposed by the Commission*

*Amendment*

*(5a) Member States should take concrete measures to assist in the wider use of biogas and gas from biomass, green hydrogen and synthetic methane from renewable energy, the producers of which should be granted non-discriminatory access to the gas system, provided that such access is compatible on an ongoing basis with the relevant technical rules and safety standards.*

## Amendment 5

### Proposal for a directive

#### Recital 5 b (new)

*Text proposed by the Commission*

*Amendment*

***(5b) Member States should ensure that, taking into account the necessary quality requirements, biogas and gas from biomass, green hydrogen and synthetic methane from renewable energy, or other types of gas are granted non-discriminatory access to the gas system, provided such access is permanently compatible with the relevant technical rules and safety standards. Those rules and standards should ensure that those gases can technically and safely be injected into, and transported through the natural gas system and should also address their chemical characteristics.***

## Amendment 6

### Proposal for a directive

#### Article 1 – paragraph 1 – point -1 (new)

Directive 2009/73/EC

Article 1 – paragraph 2

*Present text*

*Amendment*

2. The rules established by this Directive for natural gas, including LNG, shall also apply in a non-discriminatory way to biogas and gas from biomass or other types of gas in so far as such gases can technically and safely be injected into, and transported through, the natural gas system.

***(-1) in Article 1, paragraph 2 is replaced by the following:***

***"2. The rules established by this Directive for natural gas, including LNG, shall also apply in a non-discriminatory way to biogas and gas from biomass, **green hydrogen and synthetic methane from renewable energy**, or other types of gas in so far as such gases can technically and safely be injected into, and transported through, the natural gas system."***

*(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0094:0136:de:PDF>)*



## Amendment 7

### Proposal for a directive

#### Article 1 – paragraph 1 – point -1 a (new)

Directive 2009/73/EC

Article 1 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***(-1a) in Article 1, the following paragraph is added:***

***“2 a. With regard to gas infrastructure connecting a Member State to a third country, this Directive applies within the territorial limit of Union’s jurisdiction. As regards offshore pipelines, this Directive applies in the territorial waters and exclusive economic zones of the Member States.”***

## Amendment 8

### Proposal for a directive

#### Article 1 – paragraph 1 – point 1

Directive 2009/73/EC

Article 2 – point 17

*Text proposed by the Commission*

*Amendment*

(17) ‘interconnector’ means a transmission line which crosses or spans a border between Member States or between Member States and third countries up to the border of Union jurisdiction;

(17) ‘**gas** interconnector’ means a transmission line, ***including its physical entry points from and exit points to a third country***, which crosses or spans a border between Member States or between Member States and third countries up to the border of Union jurisdiction, ***including the territorial waters and exclusive economic zones of the Member States***;

## Amendment 9

### Proposal for a directive

#### Article 1 – paragraph 1 – point 2 – point a-a new

Directive 2009/73/EC

Article 9 – paragraph 8 – subparagraph 2a new

*Text proposed by the Commission*

*Amendment*

*(aa) in paragraph 8, the following subparagraph is added: ;*

*Any decision taken pursuant to point (b) of the first subparagraph of this paragraph shall be notified to the Commission without delay, together with all the information relevant thereto.*

## **Amendment 10**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2 – point b**

Directive 2009/73/EC

Article 9 – paragraph 9 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

*Any decision taken pursuant to point (b) of the first subparagraph of this paragraph shall be notified to the Commission without delay, together with all the information relevant thereto;*

## **Amendment 11**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 4 a (new)**

Directive 2009/73/EC

Article 34 – paragraph 4 – fourth sentence

*Text proposed by the Commission*

*Amendment*

*(4a) In Article 34, paragraph 4, the following fourth sentence is added:*

*Where the third countries subject to such consultation do not respond to the consultations, the Member States concerned may take the necessary decision.*

*[The reference in the header relating to the amending act (“Article 1 – paragraph 1 – point 4a (new)”) corresponds to “Article 1 – paragraph 1 – point 3 a (new)” of the Commission’s Proposal. This discrepancy is caused by the incorrect numbering (Article 1, paragraph 1,*

*point 3 is duplicated) in the Commission's proposal in all the language versions except for Hungarian.]*

## Amendment 12

### Proposal for a directive

#### Article 1 – paragraph 1 – point 5 – point -a (new)

Directive 2009/73/EC

Article 36 – paragraph 1

#### *Present text*

1. Major new gas infrastructure, i.e. interconnectors, LNG and storage facilities, may, upon request, be exempted, for a defined period of time, from the provisions of Articles 9, 32, 33 and 34 and Article 41(6), (8) and (10) **under** the following conditions:

- (a) the investment must enhance competition in gas supply and enhance security of supply
- (b) the level of risk attached to the investment must be such that the investment would not take place unless an exemption was granted;
- (c) the infrastructure must be owned by a natural or legal person which is separate at least in terms of its legal form from the system operators in whose systems that infrastructure will be built;
- (d) charges must be levied on users of that infrastructure; and
- (e) the exemption must not be detrimental to competition **or** the effective functioning of the internal market in natural gas, **or** the efficient functioning of the regulated **system to which the infrastructure is connected**;

#### *Amendment*

***(-a) paragraph 1 is replaced by the following:***

"1. Major new gas infrastructure, i.e. **gas** interconnectors, LNG and storage facilities **starting commercial operation after 1 January 2019**, may, upon request, be exempted, for a defined period of time of **not longer than 5 years**, from the provisions of Articles 9, 32, 33 and 34 and Article 41(6), (8) and (10) **if** the following **cumulative** conditions **are fulfilled**:

- (a) the investment must enhance competition in gas supply and enhance security of supply;
- (b) the level of risk attached to the investment must be such that the investment would not take place unless an exemption was granted;
- (c) the infrastructure must be owned by a natural or legal person which is separate at least in terms of its legal form from the system operators in whose systems that infrastructure will be built;
- (d) charges must be levied on users of that infrastructure; and
- (e) the exemption must not be detrimental to competition **in the relevant markets which are likely to be affected by the investment**, to the effective functioning of the **Union's** internal market in natural gas, the efficient functioning of the **concerned** regulated systems, **or to the diversification and security of supply of natural gas to and within the Union or**

**any Member State."**

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1520584216051&uri=CELEX:32009L0073>)

*[The reference in the header relating to the amending act ("Article 1 – paragraph 1 – point 5 – point -a (new)") corresponds to "Article 1 – paragraph 1 – point 4 – point -a (new)" of the Commission's Proposal. This discrepancy is caused by the incorrect numbering (Article 1, paragraph 1, point 3 is duplicated) in the Commission's proposal in all the language versions except for Hungarian.]*

## **Amendment 13**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5 – point a**

Directive 2009/73/EC

Article 36 – paragraph 3 – second sentence

*Text proposed by the Commission*

Where the infrastructure in question is under the jurisdiction of a Member State and one (or more) third countries, the national regulatory ***authority shall consult the relevant authorities of the third countries prior to adopting a*** decision.;

*Amendment*

***Before adopting the decision, the national regulatory authority shall consult:***

***(a) the national regulatory authorities of the Member States the markets of which are likely to be affected by the new infrastructure; and***

***(b) the relevant authorities of the third countries, where the infrastructure in question is under the jurisdiction of a Member State and one (or more) third countries.***

***Where the third country authorities subject to such consultation do not respond to the consultation within 3 months, the national regulatory authority concerned may take the necessary decision.***

*[The reference in the header relating to the amending act ("Article 1 – paragraph 1 – point 5 – point a (new)") corresponds to "Article 1 – paragraph 1 – point 4 – point a (new)" of the Commission's Proposal. This discrepancy is caused by the incorrect numbering (Article 1,*

*paragraph 1, point 3 is duplicated) in the Commission’s proposal in all the language versions except for Hungarian.]*

## **Amendment 14**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5 – point b**

Directive 2009/73/EC

Article 36 – paragraph 4 – subparagraph 2 – second sentence

#### *Text proposed by the Commission*

Where the infrastructure in question is also under the jurisdiction of one or more third countries, the national regulatory authorities of the Member States shall consult the relevant authorities of the third countries prior to adopting a decision with a view to ensuring, as regards the concerned infrastructure, that the provisions of this Directive are applied consistently up to the border of Union jurisdiction.;

#### *Amendment*

Where the infrastructure in question is also under the jurisdiction of one or more third countries, the national regulatory authorities of the Member States shall consult the relevant authorities of the third countries prior to adopting a decision with a view to ensuring, as regards the concerned infrastructure, that the provisions of this Directive are applied consistently up to the border of Union jurisdiction. ***Any such decision shall be notified to the Commission without delay, together with all information relevant thereto;***

***Where the third-country authorities subject to such consultation do not respond to the consultation within 3 months, the national regulatory authority concerned may take the necessary decision.***

*[The reference in the header relating to the amending act (“Article 1 – paragraph 1 – point 5 – point b”) corresponds to “Article 1 – paragraph 1 – point 4 – point b” of the Commission’s Proposal. This discrepancy is caused by the incorrect numbering (Article 1, paragraph 1, point 3 is duplicated) in the Commission’s proposal in all the language versions except for Hungarian.]*

## **Amendment 15**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5 – point b a (new)**

*Present text*

In deciding to grant an exemption, consideration shall be given, on a case-by-case basis, to the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the infrastructure. When deciding on those conditions, account shall, in particular, be taken of the additional capacity to be built or the modification of existing capacity, the time horizon of the project and national circumstances.

*Amendment*

***(ba) paragraph 6 subparagraph 2 is replaced by the following:***

"In deciding to grant an exemption, consideration shall be given, on a case-by-case basis, to the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the infrastructure. When deciding on those conditions, account shall, in particular, be taken of the additional capacity to be built or the modification of existing capacity, the time horizon of the project and national circumstances, ***as well as of the diversification and security of the supply of natural gas to and within the Union or any Member State.***"

*[The reference in the header relating to the amending act ("Article 1 – paragraph 1 – point 5 – point ba (new)") corresponds to "Article 1 – paragraph 1 – point 4 – point ba (new)" of the Commission's Proposal. This discrepancy is caused by the incorrect numbering (Article 1, paragraph 1, point 3 is duplicated) in the Commission's proposal in all the language versions except for Hungarian.]*

## **Amendment 16**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5 – point b b (new)**

Directive 2009/73/EC

Article 36 – paragraph 9 – subparagraph 1

*Present text*

Within a period of two months from the day following the receipt of a notification, the Commission may take a decision requiring the regulatory authority to amend or withdraw the decision to grant an exemption. ***That*** two-month period may be

*Amendment*

***(bb) paragraph 9 subparagraph 1 is replaced by the following:***

"Within a period of two months from the day following the receipt of a notification, the Commission may take a decision requiring the regulatory authority to amend or withdraw the decision to grant an exemption. ***When taking such a decision***

extended by an additional period of two months where further information is sought by the Commission. That additional period shall begin on the day following the receipt of the complete information. The initial two-month period may also be extended with the consent of both the Commission and the regulatory authority.

***concerning new gas infrastructure leading to and from a third country, the Commission shall take into account any Union restrictive measures, such as economic sanctions, imposed on that third country. The*** two-month period may be extended by an additional period of two months where further information is sought by the Commission. That additional period shall begin on the day following the receipt of the complete information. The initial two-month period may also be extended with the consent of both the Commission and the regulatory authority."

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1520584216051&uri=CELEX:32009L0073>)

[The reference in the header relating to the amending act ("Article 1 – paragraph 1 – point 5 – point bb (new)") corresponds to "Article 1 – paragraph 1 – point 4 – point bb (new)" of the Commission's Proposal. This discrepancy is caused by the incorrect numbering (Article 1, paragraph 1, point 3 is duplicated) in the Commission's proposal in all the language versions except for Hungarian.]

## Amendment 17

### Proposal for a directive

#### Article 1 – paragraph 1 – point 6 a (new)

Directive 2009/73/EC

Article 41 – paragraph 8

#### *Present text*

8. In fixing or approving the tariffs or methodologies and the balancing services, the regulatory authorities shall ensure that transmission and distribution system operators are granted appropriate incentive, over both the short and long term, to increase efficiencies, foster market integration and security of supply and support the related research activities.

#### *Amendment*

***(6a) in Article 41, paragraph 8 is replaced by the following :***

"8. In fixing or approving the tariffs or methodologies and the balancing services, the regulatory authorities shall ensure that transmission and distribution system operators are granted appropriate incentive, over both the short and long term, to increase efficiencies, foster market integration and security of supply and support the related research activities. ***As regards infrastructure connecting a Member State to a third country between***

***the border of the Union jurisdiction and the first interconnection point with the Union network, tariffs or methodologies shall take into account all costs of the project.”***

*[The reference in the header relating to the amending act (“Article 1 – paragraph 1 – point 6a (new)”) corresponds to “Article 1 – paragraph 1 – point 5 a (new)” of the Commission’s Proposal. This discrepancy is caused by the incorrect numbering (Article 1, paragraph 1, point 3 is duplicated) in the Commission’s proposal in all the language versions except for Hungarian.]*

## **Amendment 18**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 7**

Directive 2009/73/EC

Article 42 – paragraph 6

#### *Text proposed by the Commission*

6. Regulatory authorities shall consult and cooperate with the relevant authorities of third countries in relation to the operation of gas pipelines to and from third countries with a view to ensuring, as regards the concerned infrastructure, that the provisions of this Directive are applied consistently up to the border of Union jurisdiction.

#### *Amendment*

6. Regulatory authorities shall consult and cooperate with the relevant authorities of third countries in relation to the operation of gas pipelines to and from third countries with a view to ensuring, as regards the concerned infrastructure, that the provisions of this Directive are applied consistently up to the border of Union jurisdiction.

***Where the third-country authorities subject to such consultation do not respond to the consultation within 3 months, the national regulatory authorities concerned may take the necessary decision.***

*[The reference in the header relating to the amending act (“Article 1 – paragraph 1 – point 7”) corresponds to “Article 1 – paragraph 1 – point 6” of the Commission’s Proposal. This discrepancy is caused by the incorrect numbering (Article 1, paragraph 1, point 3 is duplicated) in the Commission’s proposal in all the language versions except for Hungarian.]*

## **Amendment 19**

### **Proposal for a directive**

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**Article 1 – paragraph 1 – point 8**  
Directive 2009/73/EC  
Article 49 – paragraph 9 – subparagraph 1

*Text proposed by the Commission*

In respect of gas pipelines to and from third countries completed before [PO: date of **entry into force** of this *Directive*], Member States may decide to derogate from Articles 9, 10, 11 and 32 and Article 41(6), (8) and (10) for the sections of such pipelines between the border of Union jurisdiction and the first interconnection point, provided that the derogation would not be detrimental to competition on or the effective functioning of the internal market in natural gas in the Union, or the security of supply in the Union.

*Amendment*

In respect of gas pipelines to and from third countries completed before [PO: date of **adoption** of this *proposal*], Member States, **after the recommendation from the Commission**, may decide to **temporarily** derogate from Articles 9, 10, 11 and 32 and Article 41(6), (8) and (10) for the sections of such pipelines between the border of Union jurisdiction and the first interconnection point, provided that the derogation would not be detrimental to competition on or the effective functioning of the internal market in natural gas in the Union, or the security of supply in the Union. **Any such draft derogation shall be notified to the Commission, to the Gas Coordination Group and to the Agency without delay, together with all the information relevant thereto, and with a detailed analysis of the effect of the derogation and the gas pipeline on the internal market in natural gas and the security of supply in the Union. Within a period of three months from the day following the receipt of such notification, the Commission shall issue a recommendation on the compliance of the derogation with applicable rules on competition, effective market functioning, security of supply in the Union and with the relevant Union energy policy principles and core objectives, including those of the Energy Union. For cases with particularly complex characteristics, the Commission may extend the period referred to in this paragraph by 3 additional months. The Gas Coordination Group and the Agency may submit their observations to the Commission regarding the compliance of the draft derogation with the principles outlined in this Article. The Commission shall immediately make the recommendation public. The Member**

***States concerned shall take utmost account of the Commission's recommendation. Where the Member State concerned deviates from the Commission's recommendation, that Member State shall provide a well-substantiated justification, based on reliable data and objective criteria and make such justification public. In no event shall a derogation be given before the Commission issues the recommendation or before the time limit for issuing of such recommendation expires.***

*[The reference in the header relating to the amending act ("Article 1 – paragraph 1 – point 8") corresponds to "Article 1 – paragraph 1 – point 7" of the Commission's Proposal. This discrepancy is caused by the incorrect numbering (Article 1, paragraph 1, point 3 is duplicated) in the Commission's proposal in all the language versions except for Hungarian.]*

## **Amendment 20**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 8**

Directive 2009/73/EC

Article 49 – paragraph 9 – subparagraph 2

#### *Text proposed by the Commission*

The derogation shall be limited in time and **may** be subject to conditions which contribute to the achievement of the above conditions.

#### *Amendment*

The derogation shall be limited in time and **shall** be subject to conditions which contribute to the achievement of the above conditions.

*[The reference in the header relating to the amending act ("Article 1 – paragraph 1 – point 8") corresponds to "Article 1 – paragraph 1 – point 7" of the Commission's Proposal. This discrepancy is caused by the incorrect numbering (Article 1, paragraph 1, point 3 is duplicated) in the Commission's proposal in all the language versions except for Hungarian.]*

## **Amendment 21**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 8**

*Text proposed by the Commission*

Where the gas pipeline in question is located in the jurisdiction of more than one Member State, the Member State in the jurisdiction of which the first **interconnection** point is located shall decide on a derogation for the pipeline.

*Amendment*

Where the gas pipeline in question is located in the jurisdiction of more than one Member State, the Member State in the jurisdiction of which the first **physical exit** point **from the interconnector** is located shall decide on a derogation for the pipeline. ***Before granting such a derogation, the Member State in the jurisdiction of which the first interconnection point is located shall consult the Member States with which this Member State's infrastructure is connected, and shall provide those Member States with all relevant information, and shall take the opinion of those Member States into account.***

*[The reference in the header relating to the amending act (“Article 1 – paragraph 1 – point 8”) corresponds to “Article 1 – paragraph 1 – point 7” of the Commission’s Proposal. This discrepancy is caused by the incorrect numbering (Article 1, paragraph 1, point 3 is duplicated) in the Commission’s proposal in all the language versions except for Hungarian.]*

## **Amendment 22**

### **Proposal for a directive Article 2 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [PO: **one year** after the date of entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

*Amendment*

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [PO: **three months** after the date of entry into force **of this amending Directive**] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

## EXPLANATORY STATEMENT

Energy security as well as the ability to provide affordable and sustainable energy for all European consumers constitute core objectives of the “Energy Union” Strategy, adopted by the European Commission on 25 February 2015. A consistent and stable legal framework is a precondition for achieving these objectives. Therefore, the rapporteur welcomes the adoption by the Commission of the proposal to amend the current Gas Directive, in line with the calls made on a number of occasions by Members of the European Parliament. The rapporteur finds that this proposal, with limited scope and its rather technical nature, reflects the fact that broader provisions of the Directive have already been widely implemented. However, he is convinced that the proposed revision will duly help fill the regulatory gap resulting from diverging interpretation of the existing law and the selective approach of some Member States and market participants in applying the Third Energy Package legislation to gas transmission pipelines entering the European Union.

Without prejudice to Article 194 of the Treaty on the European Union (“The Treaty of Lisbon”), the updated Directive 2009/73/EC of the European Parliament and of the Council leaves neither doubts nor room for misinterpretation that Union’s energy rules apply in full to all gas infrastructure to and from third countries up to the border of EU’s jurisdiction. As regards offshore pipelines, it is applicable in the territorial waters and exclusive economic zones of the Member States. These rules include unbundling of TSOs, third-party access, tariff regulation and transparency requirements, and are of crucial importance for the competitiveness of the EU internal energy market as well as for the Union’s overall security of supply and energy independence, especially in the context of EU’s growing gas imports.

Moreover, the rapporteur endorses the Commission’s approach in adjusting the definition of “interconnector”, so that it applies also to infrastructure linking the EU with third countries. This is fully in line with earlier Commission’s proposals reflected in the “Clean Energy for All Europeans” Package and constitutes yet another step towards ensuring the necessary compatibility of Union’s electricity and gas markets.

The rapporteur’s assessment is that by providing full legal clarity and transparency of existing legislation, the Commission’s proposal amending the current Gas Directive secures a level playing field for all EU energy market participants as well as long-term investment certainty and predictability. These are key elements for every reliable investor or operator willing to play according to fair and equal rules. But these elements are also vital for European citizens and industry. They strengthen market competition and so should result in lower prices and non-discriminatory treatment of all customers. Last but not least, the proposed amendments are important for the completion and resilience of our Energy Union – based on principles and values, not on exceptions.

Taking all of the above into account, the rapporteur believes that the Commission’s proposal fits the underlying purpose and meets the European Parliament’s general expectations. Nevertheless, he proposes to complement and further strengthen the provisions, in line with the Commission’s approach.

The rapporteur is of the opinion that:

- 1) In order to avoid any doubts over the territorial scope of the jurisdiction of the Member States, the territorial applicability of the Directive should be specified in the text of the Directive, by mirroring the exact wording of recital 5 of the preamble. Such a clarification will provide higher legal certainty and help to avoid any further misinterpretation of the Gas Directive, which is the main purpose of the Commission's proposal.
- 2) The National Regulatory Authorities should be entitled to fix or approve tariffs or methodologies, which take into account all costs related to the construction and operation of the gas infrastructure between the Member States and third countries. To that aim, all costs incurred by any gas infrastructure project between the Member States and third countries should be duly and transparently accounted for.
- 3) Whereas it could be deemed justifiable to give a possibility of derogation from certain provisions of the Directive for the already completed gas infrastructure, such a decision should duly provide for an involvement of the European Commission. This is necessary in order to maintain the highest possible degree of regulatory coherence of the internal market, as well as to ensure that such a derogation would not be detrimental to EU competition rules, to the effective functioning of the EU internal gas market, to Union's security of supply or to relevant EU energy policy principles, including core objectives of the Energy Union. Moreover, for the sake of the completion and further development of the EU internal energy market, the time horizon of a derogation from certain provisions of the Directive should be specified in the text and shall not exceed 10 years from date of entry into force of the amended Directive.
- 4) Given the limited scope and the technical character of the Commission's proposal, as well as the fact that it principally clarifies the applicability of the Third Energy Package to projects involving third countries, a three-month period for its transposition should be sufficient.

## PROCEDURE – COMMITTEE RESPONSIBLE

|   |  |                    |                    |
|---|--|--------------------|--------------------|
| <b>Title</b>  | Common rules for the internal market in natural gas  |                    |                    |
| <b>References</b>   | COM(2017)0660 – C8-0394/2017 – 2017/0294(COD)  |                    |                    |
| <b>Date submitted to Parliament</b>                               | 8.11.2017  |                    |                    |
| <b>Committee responsible</b><br>Date announced in plenary         | ITRE<br>29.11.2017   |                    |                    |
| <b>Committees asked for opinions</b><br>Date announced in plenary | ECON<br>29.11.2017   | ENVI<br>29.11.2017 | IMCO<br>29.11.2017 |
| <b>Not delivering opinions</b><br>Date of decision                | ECON<br>23.1.2018  | ENVI<br>13.12.2017 | IMCO<br>4.12.2017  |
| <b>Rapporteurs</b><br>Date appointed                              | Jerzy Buzek<br>17.11.2017  |                    |                    |
| <b>Discussed in committee</b>                                     | 28.11.2017   | 11.1.2018          | 22.2.2018          |
| <b>Date adopted</b>   | 21.3.2018  |                    |                    |
| <b>Result of final vote</b>                                       | +:<br>-:<br>0:   | 41<br>13<br>9      |                    |
| <b>Members present for the final vote</b>                         | Zigmantas Balčytis, Nikolay Barekov, Bendt Bendtsen, Xabier Benito Ziluaga, José Blanco López, Jonathan Bullock, Cristian-Silviu Buşoi, Reinhard Bütikofer, Jerzy Buzek, Angelo Ciocca, Edward Czesak, Jakop Dalunde, Pilar del Castillo Vera, Ashley Fox, Adam Gierek, Theresa Griffin, Rebecca Harms, Hans-Olaf Henkel, Eva Kaili, Kaja Kallas, Krišjānis Kariņš, Seán Kelly, Jeppe Kofod, Jaromír Kohlíček, Peter Kouroumbashev, Zdzisław Krasnodębski, Miapetra Kumpula-Natri, Christelle Lechevalier, Janusz Lewandowski, Paloma López Bermejo, Edouard Martin, Angelika Mlinar, Nadine Morano, Dan Nica, Angelika Niebler, Morten Helveg Petersen, Miroslav Poche, Dennis Radtke, Julia Reda, Paul Rübig, Massimiliano Salini, Algirdas Saudargas, Sven Schulze, Neoklis Sylikiotis, Dario Tamburrano, Patrizia Toia, Evžen Tošenovský, Claude Turmes, Vladimir Urutchev, Kathleen Van Brempt, Henna Virkkunen, Martina Werner, Hermann Winkler, Anna Záborská, Flavio Zanonato, Carlos Zorrinho |                    |                    |
| <b>Substitutes present for the final vote</b>                     | Gunnar Hökmark, Luděk Niedermayer, Răzvan Popa, Dominique Riquet, Pavel Telička  |                    |                    |
| <b>Substitutes under Rule 200(2) present for the final vote</b>   | Gerolf Annemans, Rosa D'Amato  |                    |                    |
| <b>Date tabled</b>  | 11.4.2018  |                    |                    |

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

| 41        | +   |
|-----------|---|
| ALDE      | Kaja Kallas, Angelika Mlinar, Morten Helveg Petersen, Dominique Riquet, Pavel Telička   |
| ECR       | Nikolay Barekov, Edward Czesak, Ashley Fox, Hans-Olaf Henkel, Zdzisław Krasnodębski, Evžen Tošenovský   |
| PPE       | Bendt Bendtsen, Cristian-Silviu Buşoi, Jerzy Buzek, Gunnar Hökmark, Krišjānis Kariņš, Seán Kelly, Janusz Lewandowski, Angelika Niebler, Luděk Niedermayer, Paul Rübig, Algirdas Saudargas, Henna Virkkunen, Anna Záborská |
| S&D       | Zigmantas Balčytis, José Blanco López, Adam Gierek, Jeppe Kofod, Miapetra Kumpula-Natri, Edouard Martin, Dan Nica, Miroslav Poche, Răzvan Popa, Kathleen Van Brempt, Flavio Zanonato, Carlos Zorrinho                     |
| VERTS/ALE | Reinhard Bütikofer, Jakop Dalunde, Rebecca Harms, Julia Reda, Claude Turmes   |

| 13      | -  |
|---------|--|
| EFDD    | Jonathan Bullock   |
| ENF     | Gerolf Annemans, Angelo Ciocca, Christelle Lechevalier                         |
| GUE/NGL | Jaromír Kohlíček, Neoklis Sylikiotis   |
| PPE     | Sven Schulze, Hermann Winkler  |
| S&D     | Theresa Griffin, Eva Kaili, Peter Kouroumbashev, Patrizia Toia, Martina Werner |

| 9       | 0   |
|---------|---|
| EFDD    | Rosa D'Amato, Dario Tamburrano  |
| GUE/NGL | Xabier Benito Ziluaga, Paloma López Bermejo   |
| PPE     | Pilar del Castillo Vera, Nadine Morano, Dennis Radtke, Massimiliano Salini, Vladimir Urutchev |

Key to symbols:

+ : in favour

- : against

0 : abstention