New EU regulation on gas storage

OVERVIEW

The Russian invasion of Ukraine in February 2022 has triggered serious concerns about EU energy security. The problem is particularly acute in the gas sector, where Russia is the leading third-country supplier, on which several Member States are heavily dependent. To ensure the EU is prepared for the risk of an interruption of gas supplies next winter, the Commission has proposed an urgent regulation on gas storage, requiring Member States to: fill in at least 80% of their storage capacity by 1 November 2022 (rising to 90% in subsequent years); carry out the certification of all gas storage system operators; and provide a 100% tariff discount on entry and exit points into gas storage.

The Commission proposed that this urgent regulation be agreed under an expedited procedure by the Parliament and the Council, so that it could start taking full effect from summer 2022. The co-legislators proceeded to swiftly negotiate a text, with agreement reached after trilogue negotiations on 19 May 2022. The agreed text was endorsed in the ITRE committee on 2 June 2022 and is to be voted during the June II plenary session. It must also be adopted by the Council of the EU, before it can enter into force. The agreed text endorses the core tenets of the Commission’s proposal but also takes account of national variations and the need for flexibilities in the gas market.


<table>
<thead>
<tr>
<th>Committee responsible:</th>
<th>Industry, Research and Energy (ITRE)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rapporteur</td>
<td>Cristian Silviu Busoi (EPP, Romania)</td>
</tr>
<tr>
<td>Negotiating team:</td>
<td>Jerzy Buzek (EPP, Poland)</td>
</tr>
<tr>
<td></td>
<td>Patrizia Toia (S&amp;D, Italy)</td>
</tr>
<tr>
<td></td>
<td>Klemen Grošelj (Renew, Slovenia)</td>
</tr>
<tr>
<td></td>
<td>Marie Toussaint (Greens/EFA, France)</td>
</tr>
<tr>
<td></td>
<td>Paolo Borchia (ID, Italy)</td>
</tr>
<tr>
<td></td>
<td>Zdzislaw Krasnodębski (ECR, Poland)</td>
</tr>
<tr>
<td></td>
<td>Sandra Pereira (The Left, Portugal)</td>
</tr>
</tbody>
</table>

Next steps expected: First-reading vote in plenary on agreed text
Introduction

The Russian invasion of Ukraine in February 2022 has prompted the EU to take exceptional measures to address its security of supply risks, particularly in the gas sector where Russia is the main third-country supplier, responsible for around 45% of the EU’s gas imports. As part of its REPowerEU plan (8 March 2022) to make Europe independent from Russian fossil fuels, the Commission indicated that it would propose a new regulation on gas storage in April 2022. This would oblige all Member States to meet minimum filling levels before next winter, as a key mechanism to improve the resilience of the EU gas market and counter the risks of an interruption in supplies of Russian gas.

As the situation in Ukraine deteriorated and EU relations with Russia worsened, the Commission brought forward its legislative proposal on gas storage (23 March 2022). More specifically, this involves a targeted revision of the 2017 security of gas supply regulation and the 2009 gas regulation, focusing exclusively on three elements: minimum filling in levels before winter; certification of storage system operators; and 100% tariff discounts for gas storage facilities.

The Commission has asked for its legislative proposal on gas storage to be agreed by the Council and the Parliament under an expedited procedure, so that it can take effect from summer 2022 and oblige all relevant parties to fill in their storage capacities before the next winter.

Existing situation

Gas storage supplies 25-30% of gas consumed in winter, and plays a crucial role in our security of supply. If a major source of supply to Europe were to be interrupted for any reason, a high level of gas storage could help to meet demand in the short and medium term, and thus give the EU and its Member States more time and space to develop longer-term solutions. So far, gas storage has mostly been treated as a national competence, since it forms part of the 'structure of energy supply' that Article 194 TFEU enshrines as the 'right' of Member States. However, Article 194 TFEU also considers that security of supply in Europe is an EU competence, and the main justification for EU action is a threat to its energy security from the Russian invasion of Ukraine. Gas storage levels vary considerably by Member State (see Figure 1), with five countries (Germany, Italy, the Netherlands, France and Austria) accounting for 73% of total EU gas storage capacity. A number of Member States have no gas storage capacity of their own at all and thus would have to rely on facilities in neighbouring countries.

Gas storage is to some extent already covered by EU legislation. The 2009 Gas Regulation applies a series of EU rules to gas storage operators, including both third-party access and capacity-allocation mechanisms, which must be on a transparent and non-discriminatory basis. There are also provisions to prevent capacity hoarding. The 2009 Gas Directive applies certain EU market rules to gas storage system operators, including specific provisions on access to storage. However, gas storage operators are not required to pursue ownership unbundling (legal unbundling is sufficient), and do not face stringent certification requirements. In fact, some storage sites are owned by gas companies headquartered in third countries, including Russia’s Gazprom.

Gas storage is covered by the 2017 Security of Gas Supply (SoGS) Regulation, with Member States required to consider storage in their planning and risk assessments, in coordination with neighbouring countries and risk groups. Yet, there is so far no EU-
wide obligation in terms of Member States needing to meet minimum levels of gas storage (or any at all), and considerable national variations exist in their regulatory approach to management of gas storage facilities.

The European Commission’s latest quarterly gas market report (Q3 2021) indicates that the EU has around 102 billion cubic metres (bcm) of operational gas storage capacity. However, the average EU filling rate at the end of September 2021 (74.6 %) was lower than over the last decade, when gas storage levels ranged between 81 % and 97 %. The report finds that lower than expected gas inflows from important sources (Russia, LNG imports, and to some extent Norway) resulted in lower supply to inject into storage, even if filling rates vary considerably between EU Member States. Most worryingly, storage sites owned by Gazprom had an average filling rate of only 22 % at the end of September 2021, contrasting with previous years (2016-2020) where Gazprom storage sites had average filling rates of over 90 %. This lends some support to the view that Russia was purposefully squeezing gas supplies to the EU in 2021, in order to maximise prices and exert leverage over approval of the Nord Stream 2 pipeline. All of this would suggest that Gazprom is responding to political rather than commercial imperatives, and makes the case for stronger public intervention in gas storage sites run by third-country operators.

December 2021 proposals on gas storage

As part of its hydrogen and decarbonised gas markets package of 15 December 2021, the Commission proposed a targeted revision of the SoGS Regulation (see Article 67), largely in response to concerns that Gazprom was not adequately filling its storage sites in Europe and not supplying enough gas to meet EU demand in 2021. The Commission’s proposal would introduce a new definition of ‘strategic stock’ and oblige Member States to collaborate on cross-border access to gas storage and liquefied natural gas (LNG) imports, inter alia in their common risk assessments. Member States could also set up a mechanism for their transmission system operators to jointly procure strategic gas stocks on a voluntary basis. For its part, the Commission would be obliged to produce a report on storage and joint procurement within three years of the revised SoGS Regulation entering into force (see EPRS briefing). This rather incremental approach to addressing Member State concerns around gas storage was somewhat superseded by events, namely the Russian invasion of Ukraine in February 2022 and the very urgent concerns this raises about EU energy security.

Parliament’s starting position

Before the Russian invasion of Ukraine

Parliament’s own-initiative resolution of 25 October 2016 on the EU strategy for liquefied natural gas and gas storage made several recommendations for how the EU and its Member States could incentivise and harmonise gas storage, improve access for renewable gases, remove regulatory barriers, and consider storagemore closely when coordinating security of supply actions.

Parliament’s own-initiative resolution of 10 July 2020 on a comprehensive European approach to energy storage called on the EU to do more to facilitate and incentivise the integration of renewable gases and hydrogen in existing natural gas networks.

A 2015 external study on energy storage, produced for the European Parliament’s ITRE committee, found that gas storage capacity in the EU was sufficient to cope with expected volumes, but there was further scope for improved cross-border access and a need to address storage issues in regions with supply vulnerabilities.

Since the Russian invasion of Ukraine

Parliament’s resolution of 1 March 2022 on the Russian aggression against Ukraine calls for the unbundling of gas storage to reduce dependence on Russia, and for the Commission and the
Member States to 'create a coordination mechanism and to use all possible gas depositories in order to ensure uninterrupted gas supply across the EU'. The resolution calls for Russian oil and gas exports to be restricted and for the EU to significantly reduce its energy dependence on Russia.

**European Council starting position**

The informal meeting of the European Council on 10-11 March 2022 produced the Versailles Declaration, part of a concerted political response to the Russian aggression in Ukraine. The Versailles Declaration recognises the need for the EU to reduce its energy dependencies and strengthen its security of supply. Among several actions, Member States 'commit to ensuring sufficient levels of gas storage and putting in place coordinated refilling operations'.

The meeting of the European Council on 24-25 March 2022 'tasked the Council to examine the proposals by the Commission on EU gas storage policy duly taking into account and addressing the interests of the Member States with significant storage capacity in order to ensure a fair balance. According to the European Council, 'refilling of gas storage across the Union should start as soon as possible, taking fully into account national preparedness measures'.

**Preparation of the proposal**

Due to the urgent nature of the Commission's legislative proposal on gas storage (23 March 2022), it has not published an impact assessment, although it has consulted some stakeholders. The Commission has discussed this topic twice with Member States in the framework of the Gas Coordination Group that it chairs (23 February and 11 March 2022). The Commission can also draw on findings from previous EU studies and strategies on gas storage, which outline national variations and identify some areas for improvement.

In February 2016, the European Commission presented an EU strategy for LNG and gas storage. This strategy looked at how the EU could take advantage of the changing global market for LNG to develop a more diverse, secure and affordable gas supply at a time when the global gas market was facing a glut of supply and LNG prices were exceptionally low (see EPRS briefing). While the focus of this particular strategy was improving the geographical spread of LNG import terminals to guarantee security of supply across the whole EU, it also argued that improved cross-border access to gas storage and more flexible storage options would enhance the potential benefits deriving from increased LNG use. However, the strategy did not recommend new EU competences in the field of gas storage or a large increase in Member State capacity.

The LNG and gas storage strategy built on the findings of an external study produced for the Commission on the role of gas storage in the internal market and in ensuring security of supply (final version, September 2017). The study compared gas storage across the EU and delved more deeply into how it works in 11 of the larger EU Member States, including the five that account for almost three quarters of EU storage capacity (Germany, Italy, France, the Netherlands and Austria). The Commission's study found that Member States have very different regulatory arrangements for gas storage, with no unified approach across the EU internal market. Whereas many Member States have mandatory storage obligations, fewer have strategic reserves or security-of-supply-related storage measures.

The study identifies weaknesses in cross-border access to gas storage capacity, and notes that one third of (smaller) Member States have no gas storage of their own. The amount of mandatory storage capacity in individual Member States varies between 3% and 24%, while three of the case study countries (Germany, Austria, UK) had no mandatory storage obligations at all, relying instead on the market to determine appropriate storage levels. The Commission's study suggests that imposing harmonised mandatory storage obligations across the EU would generate far higher costs than benefits, and that plentiful storage capacity can be found in some Member States that lack any such mandatory obligations. Nevertheless, more effort could be made to improve cross-border cooperation on gas storage in order to better guarantee security of supply.
The European Commission published a follow-up study (February 2017) to its LNG and underground gas storage strategy. The study found that, despite many Member States imposing storage obligations to ensure security of supply, ‘the aggregate volume of gas stored is decreasing with time’, albeit with national variations. While some countries saw an increase in their use of gas storage sites (e.g. Italy and Poland), others saw a marked decline (e.g. Germany, France, Austria). In any case, the Commission’s study felt that existing storage capacity, when combined with other potential measures for supply diversification (e.g. LNG imports), was sufficient to handle supply disruptions under the most extreme scenarios. However, a total and sudden interruption of gas supplies from Russia was not a modelled scenario, since this did not appear at all likely at the time of the study.

The changes the proposal would bring

The Commission’s proposed regulation on gas storage (23 March 2022) consists of a targeted revision of the 2017 SoGS Regulation and the 2009 Gas Regulation, using Article 194(2) TFEU (energy policies) as its legal basis. The Commission has requested an expedited procedure so that the necessary changes are in place by summer 2022. The procedure for approving this regulation would remain separate from the broader revision of the Gas and SoGS Regulations presented on 15 December 2021; these will take longer to negotiate but will also provide an opportunity to refine the details of the Gas Storage Regulation. This legislative proposal would require all EU Member States with gas storage capacity to ensure their underground gas storage is filled to at least 80 % of capacity by 1 November 2022. The level of required storage would rise to 90 % for subsequent years (1 November 2023 onwards), with intermediate trajectory targets in February, May, July, and September. The Commission would be empowered to take proportionate action to address deviations from these filling trajectories. Member States without access to their own gas storage facilities would benefit from a burden-sharing mechanism with neighbouring countries, ensuring they can access gas from storage equivalent to at least 15 % of their annual gas consumption. The Gas Coordination Group would receive an explicit mandate to monitor Member States’ performance in the area of security of gas supply, to develop best practices on that basis and to support the Commission’s monitoring and enforcement actions. Member States would need to incorporate ‘filling in targets’ in forthcoming updates of their national energy and climate plans and associated data over the 2021-2030 period.

Mandatory certification of all gas storage system operators in the EU would be introduced, to ensure that owners of storage system operators do not put security of supply at risk. This provision would apply to storage system operators that are owned by EU companies, as well as those owned by third countries’ companies (e.g. Gazprom). In consequence, non-certified operators would have to give up ownership or control of EU gas storage facilities, while authorisation from a national regulator would be necessary for any gas storage facility to close down its operations. To incentivise refilling, a 100 % discount on capacity-based transmission tariffs at entry and exit points of storage facilities would apply. The issue of incentives is an important one, because the proposed regulation does not offer financial support for Member States that need to purchase gas stocks to fill in their storage facilities. To support the latter goal, the Commission has proposed to take a lead role in organising the joint procurement of strategic gas stocks for the EU and its Member States. This should hopefully lead to lower prices and more preferential contract terms than if Member States have to individually negotiate buying additional gas reserves.

Advisory committees

On 18 May 2022, the European Economic and Social Committee (EESC) adopted an opinion (TEN/779-EESC-2022) on the EU gas storage policy (co-rapporteurs: Mateusz Szymanski, Workers – Group II, Poland; Marcin Nowacki, Employers – Group I, Poland). The EESC opinion strongly supports the Commission’s proposal on gas storage, and asks this to be supplemented with a short-term investment instrument hydrogen-ready infrastructure (e.g. interconnectors and storage facilities).
And to consider using gas storage facilities in bordering third countries (including Ukraine). In order to avoid an imbalance in burden-sharing, the opinion asks for more tailored plans for individual Member States that take into account storage size, national consumption, and capacity to serve other countries in the region. The EESC also calls for the introduction of an early implementation mechanism to allow national regulatory authorities to start preparatory work on the mandatory certification process as soon as possible.

**National parliaments**

National parliaments were consulted on this proposal but did not issue any reasoned opinions.

**Stakeholder and academic views**

The International Energy Agency (IEA) proposed a 10-point plan to reduce the EU’s reliance on Russian gas (March 2022), starting with no new contracts signed with Russia. The IEA report calls for minimum gas storage obligations to enhance market resilience, which dovetails with the Commission’s own legislative proposal. However, the IEA report points out that seasonal spreads in prices do not currently provide a strong market incentive for filling in storage to high levels, so therefore ‘a harmonised approach to minimum storage obligations for commercial operators in the EU’s single gas market, together with robust market-based capacity allocation mechanisms, would ensure the optimal use of all available storage capacity in the EU’. This implies some degree of financial support from governments in order to incentivise refilling. The IEA report indicates that storage levels of at least 90% by 1 October 2022 are necessary to provide a buffer through winter, but higher injection requirements to fill in storage sites will also increase gas prices in the short term.

The economic think-tank Bruegel suggests that the EU needs to prepare for the potential scenario of a complete termination of gas flows from Russia by next winter. This will require the EU to make full use of all its LNG import capacity and all of its gas storage capacity. According to Bruegel, ‘injecting around 700 TWh into EU storages ahead of next winter will be a costly exercise. At current prices this would cost at least €70 billion, compared to €12 billion in previous years.’ The EU has a strong incentive to act collectively to purchase gas and coordinate its storage capabilities, because competition between Member States for limited gas supplies will further drive up prices. Bruegel cautions that, even if LNG imports and storage capacities are maximised, the EU would need at least 400 TWh more gas simply to get through the winter. Alongside maximum gas storage and LNG imports, the EU therefore needs to take active gas demand reduction measures, in order to fully guarantee security of supply while phasing out Russian gas imports.

The data analytics company Kpler has analysed the EU gas storage situation in light of the Commission’s legislative proposal. They conclude that a fill level of 80% is normal for the EU around 1 November of each year, so in this respect the Commission proposal would simply guarantee the usual storage levels for 2022, while raising this level for subsequent years. Member States with larger storage capacities will generally need to make the most efforts to reach these new targets. Kpler identifies Germany in particular, whose injection demand exceeds that of other Member States, and which has many storage sites controlled by Gazprom with low filling levels.

**Legislative process**

In the Parliament, the file was referred to the Committee for Industry, Research and Energy (ITRE). Given its urgent nature, the Commission asked for agreement under an expedited procedure. The ITRE coordinators proceeded to request application of the urgent procedure (Rule 163), without a report from the committee. They appointed a negotiating team, headed by Jerzy Buzek (EPP, Poland), consisting of the MEPs that are currently serving as rapporteur and shadow rapporteurs for the broader reform of the EU Gas Regulation and the SoGS Regulation. The Parliament endorsed the decision to apply the urgent procedure on 7 April 2022, and referred the proposal back to the ITRE committee to start interinstitutional ‘trilogue’ negotiations. The Council of the EU adopted its own
New EU regulation on gas storage

Position urgently in order to allow these ‘trilogue’ negotiations to begin as soon as possible. A swift provisional agreement was reached on 19 May 2022. The agreed text was endorsed by the ITRE committee on 2 June 2022 and is due to be voted by the whole Parliament in the June II plenary session. The same text must also be adopted by the Council of the EU, before it can enter into force.

The agreed text includes all the core tenets of the Commission’s proposals but contains additional provisions that take account of national variations and the need for flexibilities in the gas market. While maintaining the storage filling rates proposed by the European Commission (80% by 1 November 2022 and 90% in subsequent years), the agreed text suggests the EU should aim for 85% filling rates by the end of 2022. Nevertheless, Member States will not be obliged to guarantee storage levels higher than 35% of their annual gas consumption, which ensures fairer burden-sharing for countries that have very large storage capacity. In line with the Commission proposal, Member States without adequate storage facilities of their own will be expected to book storage capacity, equivalent to 15% of their annual gas consumption, with countries in the region that have much greater capacity. The agreed text allows Member States to include LNG storage towards calculating their filling rates and outlines a ‘filling trajectory’ system, which will allow continuous monitoring throughout the filling season. In 2022, the trajectories will be set in the regulation with a margin of flexibility of 5%. From 2023 onwards, the trajectories will be proposed by the Member States and established by implementing acts adopted by the Commission.

The agreed text supports the compulsory certification of all storage operators (as proposed by the Commission), but gives Member States slightly more time (150 days) to certify the prioritised facilities (i.e. those owned by third countries where filling rates have been lowest) and 18 months to certify the other facilities (mostly EU owned). All uncertified operators will be required to relinquish ownership or control of storage facilities. In the agreed text, joint purchases of gas are specifically included among the measures that Member States can take to increase their filling rates, alongside potential financial incentives. A derogation is granted to Cyprus, Malta and Ireland so long as these countries are not directly interconnected with the EU internal gas market. ENTSOG will be tasked with carrying out an EU-wide simulation of gas supply and infrastructure disruption scenarios by 1 September 2022, including scenarios of the prolonged disruption of a single supply source.

The Commission will be required to report on implementation of the key provisions of the regulation (including filling rates and certification) by 28 February 2023 and on an annual basis thereafter. The filling obligations outlined in the gas storage regulation will expire on 31 December 2025 (sunset clause), but the gas storage certification obligations will continue to apply beyond that date.
SOURCES

Security of gas supply and conditions for access to natural gas transmission networks, Legislative Observatory (OIEL), European Parliament.

ENDNOTES

1 See page 20 of the European Commission’s Q3 2021 report on gas markets.

2 The proposed regulation distinguishes between two different categories of storage system operators. The first category are those operating storage facilities with capacities above 3.5 TWh and which were filled on 31 March 2021 and on 31 March 2022 at a level which is, on average, <30% of their maximum capacity. In such cases, the regulatory authorities will need to adopt a draft decision on the certification of storage system operators within 100 working days from the date of entry into force of this regulation. For all other storage system operators, a draft decision shall be adopted within 18 months from the date of entry into force of this regulation.

3 This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal.

DISCLAIMER AND COPYRIGHT

This document is prepared for, and addressed to, the Members and staff of the European Parliament as background material to assist them in their parliamentary work. The content of the document is the sole responsibility of its author(s) and any opinions expressed herein should not be taken to represent an official position of the Parliament.

Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy.


eprs@ep.europa.eu (contact)
www.eprs.ep.parl.union.eu (intranet)
www.europarl.europa.eu/thinktank (internet)
http://epthinktank.eu (blog)

Second edition. The 'EU Legislation in Progress' briefings are updated at key stages throughout the legislative procedure.