

New Security of Supply Regulation

(Regulation (EU) 2017/1938 of the European Parliament and of the Council of 25 October 2017 concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010):

Questions and comments of the Russian side

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Vienna, December 1, 2017

- ▶ **WHETHER EU HAS OBTAINED NEW EFFECTIVE COMPETENCES IN SECURITY OF GAS SUPPLY AREA?**
- ▶ **WHETEHER SOLIDARITY MECHANISM IS AN EFFECTIVE WORKABLE TOOL?**
- ▶ **WHAT IS “ADDED VALUE” OF TRANSPARENCY PROVISIONS AND WHAT ARE THEIR PRACTICAL IMPLICATIONS?**

WHETHER EU HAS OBTAINED NEW EFFECTIVE COMPETENCES IN SECURITY OF GAS SUPPLY AREA?

1. SoS Regulation was based on Energy Union Strategy which envisaged potential introduction of collective purchasing of gas in certain circumstances as an element of energy solidarity. The adopted text contains no reference to this idea, whether it is now gone and is not more being discussed in the EU?
2. SoS Regulation contains no definition of “security of gas supply”, whether determination of this notion is left to a national level?
3. In the draft SoS Regulation published in February 2016 the Commission proposed to give it a right to request amendments of national preventive action plans and emergency plans. The adopted Regulation provides strictly limited rights of the Commission to influence the plans (in respect only to non-market based measures of preventive action plans). General rule is that the Commission only has a right to give a non-binding opinion in respect of relevant national plans. Whether under the SoS Regulation:
 - a) The EU (i.e. the Commission) has obtained substantial new effective legal means to influence security of supply policy, if so, what are these means? or
 - b) The EU is still not entitled to effectively interfere in security of gas supply policy which is primarily determined on the national level?

WHETEHER SOLIDARITY MECHANISM IS AN EFFECTIVE WORKABLE TOOL?

Solidarity mechanism provided in Art.13 of SoS Regulation is formulated in quite a complex manner which means that it is a fruit of a difficult political compromise and it may be challenging to enforce this mechanism in practice. Whether:

- a) You consider that compensation principles implying obligation of an affected Member State to pay not only price of gas supplied but also indemnify the supplying Member State all related costs and damages (both direct and indirect) significantly decreases attractiveness of the mechanism?
- b) In the lack of a specific side agreement on the amount of compensation to be paid by the affected Member State to the supplying Member State, the mechanism will not work at all?

WHAT IS “ADDED VALUE” OF TRANSPARENCY PROVISIONS AND WHAT ARE THEIR PRACTICAL IMPLICATIONS?

As regards transparency provisions of SoS Regulation and their applicability to commercial gas supply contracts:

- a. What “added value” they create as compared to transparency provisions of other instruments (including REMIT)?
- b. Whether, when and who will issue clarifications on application of these provisions, which would specify how they should work in practice, in particular:
 - I. Who is the addressee of these provisions (supplier, buyer or both are bound to disclose)?
 - II. What competent authority shall be notified of the contracts covering more than 28% of national demand - only an authority of one most affected Member State which shall accumulate all contracts, including contracts on supply to other Member States?
- c. The disclosure of commercial information under SoS Regulation is required for security of supply assessment. What in practice shall be the result of this assessment and whether and how such assessment could influence specific contracts being disclosed?

THANK YOU!