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PROPOSAL

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2022/0225 (NLE)

Proposal for a

COUNCIL REGULATION

on coordinated demand reduction measures for gas

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Over the past year, supplies of gas from Russia have had a series of disruptions that can only be explained by a deliberate attempt to use energy as a political weapon. Russia has been for many years the main gas supplier of the EU. Last year, the EU relied on Russia for more than 40% of its gas supplies. The supply of gas has continuously decreased since the start of the war. The pipeline flows of gas from Russia are less than 30% of the average of the previous years. Twelve Member States have activated the first or second crisis level pursuant the common EU classification. This supply shock has already significant impacts on the price of gas, on the price of electricity, on inflation, on the overall EU financial and macroeconomic stability, and on all citizens.

There is no reason to believe this deterioration of gas supply will stop. The EU is today facing the realistic prospect of a full and protracted disruption of gas from Russia at any moment. It must be prepared for it and take pre-emptive actions to mitigate the impacts of possible major supply disruptions.

The EU has invested sustained efforts into improving the overall security of supply situation of the Union in the past decade, in particular focusing on diversification through infrastructure development, as well as the strengthening of the gas security of supply framework. While the current framework has been conceived and been successful in addressing short-term disruptions and extreme weather events, it remains inadequate to deal with highly uncertain supply prospects and major sustained cuts in supply.

In reply to the heightened risk for the coming winter, the EU has considerably reinforced its immediate preparedness for such a major supply disruption the last few months: it has fully taken advantage of the possibilities provided by the current legal framework, it has introduced measures to incentivise the refilling of storage, established the EU Energy Platform to support diversification of gas supplies and announced, as part of the REPowerEU plan of 18 May 2022, the goal to end the dependency on Russian fossil fuels as soon as possible. In its resolution of 7 April 2022, the European Parliament called for a plan to continue ensuring the Union's security of energy supply in the short-term to be presented. The EU leaders in the European Council subsequently asked on 31 May and 23 June 2022 to improve preparedness for possible major supply disruptions as a matter of urgency with a view to securing energy supply at affordable prices.

In view of possible further supply cuts by Russia and building on the need for the EU to jointly address these new challenges, further reductions of gas demand are crucial to avoid far-reaching negative consequences for citizens and the EU economy. The proposed Regulation creates an improved coordination framework for national gas demand reduction measures. It also introduces a possibility for the Commission to declare a new Union crisis level, namely a 'Union alert', triggering a compulsory Union-wide demand reduction obligation and aiming to safeguard security of gas supply. The commitment of all Member States to reduce gas demand by measures of their own choice in case of a further deterioration of the supply situation leading to a Union alert is key to prevent the significant economic harm stemming from further supply disruptions. Joint and well-coordinated demand reductions can significantly reduce the risk of curtailment of industries that are crucial for the EU supply chains and the EU's competitiveness in case of a major supply disruption. As set

out in the Communication "Save Gas for a Safe Winter" of 20 July 2022, it is much cheaper for citizens and industry to act now to reduce demand rather than face uncoordinated curtailments later.

The amount of the necessary demand reduction volumes which will reduce the impact of the supply disruption but not avoid all negative impacts, should consider the volumes of gas demand which could be at risk in case of a full disruption of Russian gas supplies. These volumes can be distributed amongst all Member States, based on a comparison with their average consumption over the last 5 years.

With a view to avoiding the significant distortions of the internal market which are likely to occur if Member States react in an uncoordinated manner to a potential further Russian supply disruption, it is crucial that all Member States act jointly and in a spirit of solidarity as soon as possible. While some Member States may be more exposed to the effects of a disruption of Russian supplies, all Member States will be negatively affected and can contribute to limit the economic harm of such disruption. This proposal therefore reflects the principle of energy solidarity, which has recently been confirmed by the Court of Justice as a fundamental principle of EU law[1]. Member States which make all efforts to cope with the gas shortage within their territory should be entitled to fully benefit from the energy solidarity of their neighbours.

However, as certain Member States are not able to free up significant volumes of pipeline gas to the benefit of the Union, due their specific geographical or physical situation, such as missing or low pipeline interconnection to other Member States, the proposal includes the possibility for those Member States to apply for a limitation of their mandatory demand reduction obligation.

- **Consistency with existing policy provisions in the policy area**

The proposed instrument sets out temporary, proportionate and extraordinary measures. It complements existing relevant EU initiatives and legislation, which ensures that citizens can benefit from secure gas supplies and that customers are protected against major supply disruptions.

It flows logically from existing initiatives, such as the "REPowerEU", the proposal for a Hydrogen and Gas Market Decarbonisation Package[2] and the "Save Gas for a Safe Winter" initiative. The proposed initiative is fully complementary to the EU legislation on security of gas supply, which already established a comprehensive set of rules to better protect citizens and companies against supply interruptions. Regulation (EU) 2017/1938 introduced, inter alia, emergency plans whereby Member States are required to prepare for different crisis levels and plan for measures that can be taken in the event of a national alert. Solidarity mechanisms are also in place, ensuring that Member States cooperate across borders to ensure that energy is provided to those customers in a region who need it most, in case of supply disruptions. The Commission's proposal for a Hydrogen and Gas Market Decarbonisation Package includes further measures to enhance preparedness against supply disruptions.

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1 Judgment in Case C-848/19 P (Germany v Poland).

2 Proposal for a Directive of the European Parliament and of the Council on common rules for the internal markets in renewable and natural gases and in hydrogen COM/2021/803 final; proposal for a Regulation of the European Parliament and of the Council on the internal markets for renewable and natural gases and for hydrogen (recast) COM/2021/804 final.

Following the Russian invasion of Ukraine, the EU has set out the REPowerEU Plan with the aim to end the EU's dependence on Russian fossil fuels, as soon as possible and at the latest by 2027. To achieve this, the REPowerEU Plan sets out measures related to energy savings and energy efficiency, and proposes an accelerated roll-out of clean energy to replace fossil fuels in homes, industry and power generation. In this context, the proposed initiative builds on the tools the EU already has at its disposal and is fully consistent with the goals set out in REPowerEU.

The Commission's proposal for a Hydrogen and Gas Market Decarbonisation Package[3] includes further measures to enhance preparedness against supply disruptions, notably by revising the Regulation (EU) 2017/1938. In addition, the recently adopted Storage Regulation (EU) 2022/1032[4] introduced storage obligations in response to the Russian invasion of Ukraine, in which supply shortages and price peaks can result not only from the failure of infrastructure or extreme weather conditions, but also from geopolitical changes, leading from longer lasting or sudden supply disruptions. The storage filling obligations in Regulation (EU) 2022/1032 contribute to safeguarding security of gas supply for the winter of 2022–2023.

The existing gas security of supply rules are, however, not fully adapted to security of supply challenges of the nature and magnitude we are currently facing, where immediate preparedness becomes essential in order to avoid severe economic and social consequence of major supply disruptions. On 31 May and 23 June 2022 the European Council, in its conclusions, therefore asked for the preparation for further gas supply disruptions to be carried out as a matter of urgency and in particular to enable closer coordination with – and between - Member States.

The "Save Gas for a Safe Winter" Communication adopted on 20 July 2022 sets out the tools that Europe already has available for a coordinated demand reduction, and what else needs to be done, so that Europe is ready for full or partial disruptions. The proposed initiative responds to the increased risks resulting from Russia's war against Ukraine, and is fully complementary to the existing security of supply rules. It sets out new rules for coordinated demand reductions and introduces a new Union alert. Indeed, while there is already the possibility for the Commission to declare an emergency at Union level, there is currently no possibility under existing legislation to declare an alert at Union level. However, the current situation shows that such alert may be useful to ensure that all Member States take the necessary preventive measures to avoid an energy emergency.

This proposal for an instrument, enabling coordinated crisis preparation by introducing better coordination rules for demand reductions and by creating the possibility to introduce Union-wide mandatory gas demand reductions is therefore complementary to the existing instruments, safeguarding the security of gas supply and ensuring coordination between demand reduction measures across the EU.

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[3] Proposal for a Directive of the European Parliament and of the Council on common rules for the internal markets in renewable and natural gases and in hydrogen COM/2021/803 final; proposal for a Regulation of the European Parliament and of the Council on the internal markets for renewable and natural gases and for hydrogen (recast) COM/2021/804 final

[4] Regulation (EU) 2022/1032 of the European Parliament and the Council of 29 June 2022 amending Regulation (EU) 2017/1938 and (EC) No 715/2009 with regard to gas storage, OJ L 173/17 of 30 June 2022.

- **Consistency with other Union policies**

The proposal is an extraordinary measure, to be applied for a limited time, that is consistent with a broader set of initiatives to enhance the Union's energy resilience and to prepare for possible emergency situations. The proposal is also fully compatible with competition and market rules, as functioning cross-border energy markets are key to ensure security of supply in a situation of supply shortages. Appropriate rules in the proposal ensure that national measures do not hamper competition or compromise the integrity of the internal market. Providing for more coordinated demand reductions, it is also in line with the Commission's Green Deal targets.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for this instrument is Article 122(1) of the Treaty on the Functioning of the European Union ('TFEU').

The current shortage of gas supplies constitutes a severe difficulty in the supply of an energy product pursuant to Article 122. EU leaders and Commission have identified the urgent need for additional measures for more coordinated action already during the summer months, in order to be better prepared for possible further gas disruptions in the coming winter. The measures under the instrument allow all Member States to prepare for possible further supply shortages in a coordinated manner. It is therefore justified to base the proposed instrument on Article 122(1) TFEU.

- **Subsidiarity (for non-exclusive competence)**

The planned measures of the present initiative are fully in line with the subsidiarity principle. Because of the scale and the significant effect of further cuts in gas supply on the part of Russia, there is a need for EU level action. A coordinated approach through Union-wide demand reduction, in the spirit of solidarity, is necessary to minimise the risk of potential major disruptions during the winter months when gas consumption will be higher and where Member States will need to partly rely on the gas stored during the injection season.

Given the unprecedented nature of the gas supply crisis and its transboundary effects, as well as the level of integration of the EU internal energy market, action at Union level is warranted as Member States alone cannot sufficiently effectively address the risk of serious economic difficulties resulting from price hikes or significant supply disruptions in a coordinated manner. Only EU action motivated by a spirit of solidarity between Member States can ensure that supply disruptions do not lead to lasting harm for citizens and the economy.

By reason of its scale and effects, the measure can be better achieved at Union level, hence the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union.

- **Proportionality**

The initiative complies with the proportionality principle. It falls within the scope of Article 122(1) TFEU. The policy intervention is proportional to the dimension and nature of the problems defined and the achievement of the set objectives.

In view of the unprecedented geopolitical situation and the significant threat for citizens and the EU economy, there is a clear need for coordinated action. Hence, the proposal does not go

beyond what is necessary to achieve the objectives laid down in the current instrument. The proposed measures are considered proportionate and build to the extent possible on existing approaches, such as the existing crisis levels and emergency plans established in accordance with Regulation (EU) 2017/1938.

This proposal sets the final result to be achieved, in the form of process for setting a legally binding energy reduction obligation for Member States, while giving Member States full autonomy in choosing the most effective means to meet such obligation according to their national specificities and the measures already foreseen in the national emergency plans.

- **Choice of the instrument**

Taking into account the dimension of the energy crisis and the scale of its social, economic and financial impact, the Commission deems suitable to act by way of a regulation which is of general scope and directly and immediately applicable. This would result in a swift, uniform and Union-wide cooperation mechanism.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

Due to the politically sensitive nature of the proposal and urgency to prepare the proposal so that it can be adopted on time by the Council, a stakeholder consultation could not be carried out.

- **Fundamental rights**

No negative impact has been identified on fundamental rights. The measures under this instrument will not affect the rights of customers who are categorised as protected under Regulation (EU) 2017/1938, including all household customers. The instrument will enable to reduce the risks associated with gas shortage that would otherwise have major implications on the economy and society.

4. BUDGETARY IMPLICATIONS

This proposal does not require additional resources from the EU budget.

5. OTHER ELEMENTS

Not relevant.

2022/0225 (NLE)

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 122(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Russian Federation, the Union's main external gas supplier, has started a military aggression against Ukraine, a Contracting Party of the Energy Community. The escalation of the Russian military aggression against Ukraine since February 2022 has led to gas supplies declining markedly, in a deliberate attempt to use gas as a political weapon. Pipeline flows of gas from Russia through Belarus have stopped and supplies through Ukraine have steadily decreased. Overall flows from Russia are now less than 30% of the average of 2016-2021. This supply reduction has led to historically high and volatile energy prices, contributing to inflation and creating a risk of further economic downturn in Europe.

(2) Against this background, the Union has developed the REPowerEU Plan on 18 May 2022[5] with the aim to end the Union's dependence on Russian fossil fuels, as soon as possible and at the latest by 2027. To achieve this, the REPowerEU Plan sets out measures related to energy savings and energy efficiency and proposes an accelerated roll-out of clean energy to replace fossil fuels in homes, industry and power generation.

(3) The Union has taken further measures to increase its preparedness against gas supply disruptions. Regulation (EU) 2022/1032 of the European Parliament and of the Council[6] was adopted to ensure the filling of underground storage sites for the coming winter.

(4) Furthermore, in February 2022 and in May 2022 the Commission carried out in-depth reviews of all national emergency plans and has also carried out in-depth monitoring of the security of supply situation. The measures taken since February 2022 were designed to be able to fully phase-out from Russian gas by 2027, and to reduce the risks stemming from a further major supply disruption.

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5 Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions REPowerEU Plan (COM/2022/230 final).

6 Regulation (EU) 2022/1032 of the European Parliament and of the Council[1] of 29 June 2022 amending Regulations (EU) 2017/1938 and (EC) No 715/2009 with regard to gas storage (OJ L 173, 30.6.2022, p. 17).

(5) However, the recent escalation of disruptions of gas supply from Russia points to a significant risk that a complete halt of Russian gas supplies may materialise in the near future, in an abrupt and unilateral way. The Union should therefore anticipate such a risk and prepare, in a spirit of solidarity, for the possibility of a full disruption of gas supplies from Russia, at any moment. Immediate proactive action is necessary to anticipate further disruptive actions and strengthen the resilience of the Union to future shocks. Coordinated action at Union level can avoid serious harm to the economy and citizens resulting from a possible gas supply interruption,

(6) The current legal framework for security of gas supply set by Regulation (EU) 2017/1938[7] does not adequately address disruptions of a major gas supplier of more than 30 days. The missing legal framework for such disruptions leads to a risk of uncoordinated action by Member States, which threatens to endanger security of supply in neighbouring Member States and may put additional burden on the Union's industry and consumers.

(7) In its resolution of 7 April 2022 on the conclusions of the European Council meeting of 24-25 March 2022, the European Parliament called for a plan to continue ensuring the Union's security of energy supply in the short-term to be presented. In its meetings on 31 May and 23 June 2022, the European Council requested the Commission to make proposals for improving preparedness for possible major supply disruptions as a matter of urgency with a view to securing energy supply at affordable prices.

(8) Article 122(1) of the Treaty on the Functioning of the European Union allows the Council to decide, on a proposal from the Commission and in a spirit of solidarity between Member States, upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy. The risk of a complete halt of Russian gas supplies by the end of this year as described above constitutes such a situation.

(9) Given the imminent risk of disruption of gas supplies to the Union, Member States should take measures now to reduce their demand ahead of the winter season. Such voluntary demand reduction would contribute notably to the filling of storage capacities, which would not be depleted at the end of the winter, allowing to cope with possible cold spells in February and March of 2023 and facilitating the filling of storages to ensure adequate levels of security of supply for the winter 2023-2024. Reducing demand for gas will also help ensure adequate supply and drive prices down, to the benefit of the Union consumers. Therefore, measures taken at Union level to reduce demand would benefit all Member States by decreasing the risk of a more substantial impact on their economies.

(10) The amount of the recommended demand reduction should consider the volumes of gas demand which would be at risk of non-delivery in case of a full disruption of Russian gas supplies. The volume of the reduction should be distributed amongst all Member States, based on a comparison with their average consumption over the last 5 years.

(11) In order to promptly address the specific challenges of the ongoing and anticipated severe worsening of gas supply shortages and avoid distortions between Member

[7] 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.

States, the Commission should be empowered to declare, after consultation of the relevant risk groups and the Gas Coordination Group ('GCG'), established under Regulation (EU) 2017/1938, and taking into account any views expressed by the Member States in that context, a Union alert, in case the voluntary demand reduction measures prove to be insufficient to address the risk of a serious supply shortage. Three or more competent authorities of Member States which have declared nation alerts should be given the possibility to request the Commission to declare a Union alert.

(12) The Union alert should serve as a Union-specific crisis level, which should trigger mandatory demand reduction. It should not have a legal impact on the national crisis levels pursuant to Article 11(1) of Regulation (EU) 2017/1938.Voluntary measures may not by themselves be sufficient to ensure security of supply and market functioning. Therefore, a new instrument introducing the possibility for a mandatory gas demand reduction for all Member States should be established. It should become operational sufficiently in advance of the autumn. Once a Union alert has been declared, all Member States should be obliged to reduce their gas consumption within a pre-defined period. The amount of the necessary demand reduction volumes should consider the volumes of gas demand which could be at risk in case of a full disruption of Russian gas supplies and should fully take into account voluntary demand reduction already achieved during the same period. The volume of the reduction can be distributed amongst all Member States, based on a comparison with their average consumption over the last 5 years. The volume and the duration of the mandatory demand reduction obligation should also take into account the level of storage filling as reported pursuant to Article 6(d)(1) of Regulation (EU) 2017/1938, the development concerning the diversification of sources of gas, including LNG supplies and the development of fuel substitutability in the Union.

(13) With a view to the significant distortions of the internal market which are likely to occur if Member States react in an uncoordinated manner to a potential or actual further Russian supply disruption, it is crucial that all Member States reduce their gas demand in a spirit of solidarity. All Member States should therefore, achieve the same voluntary and mandatory reduction targets. While some Member States may be more exposed to the effects of a disruption of Russian supplies, all Member States will be negatively affected and can contribute to limit the economic harm of such disruption, be it by freeing up additional volumes of pipeline gas or LNG cargoes which can be used by Member States with significant gas deficits, be it by the positive effect on gas prices which a demand reduction is likely to have, be it by avoiding market distortions through uncoordinated and contradicting demand reduction measures. This Regulation therefore reflects the principle of energy solidarity, which has recently been confirmed by the Court of Justice as a fundamental principle of EU law[8].

(14) However, certain Member States are, due their specific geographical or physical situation, such as missing or low pipeline interconnection to other Member States, not able to free up significant volumes of pipeline gas to the benefit of other Member States. Those Member States should therefore be given a possibility to ask for a partial derogation from the mandatory demand reduction obligation. The Commission, when verifying the conditions for the application of the derogation, should take into account if the respective Member State makes full use of its gas interconnectors and uses its

[8] Judgment in Case C-848/19 P (Germany v Poland).

LNG facilities to re-direct gas to other Member States to the utmost extent, in a spirit of solidarity. The Commission should also monitor the total gas consumption as well as the use of interconnectors and LNG facilities.

(15) Member States should be free to choose the appropriate measures to reach the mandatory demand reduction. When identifying appropriate demand reduction measures and prioritising customers groups, Member States should make use of the measures identified in the Communication "Save Gas for a Safe Winter" of 20 July 2022. Member States should in particular consider economically efficient measures such as auctions or tender schemes, by which Member States can incentivise a reduction of consumption in an economically efficient manner. The measures taken at national level may also include financial incentives or compensations to market participants affected.

(16) Any measure taken by Member States to reach the mandatory demand reduction should be necessary, clearly defined, transparent, proportionate, non-discriminatory and verifiable, and should not unduly distort competition or the proper functioning of the internal market in gas or endanger the security of gas supply of other Member States or of the Union. Given that non-market based measures, such as those mentioned in Annex VIII to Regulation (EU) 2017/1938, can be particularly damaging to the security of gas supply and the internal market, Member States should rely on market-based mechanisms. It is also necessary to consider the interest of protected customers to be guaranteed uninterrupted supplies of gas.

(17) In order to ensure that demand-reduction measures are implemented in a coordinated manner, Member States should establish regular cooperation within each risk group as established in Annex I of Regulation (EU) 2017/1938. Member States are free to agree on the coordination measures best suited in a given region. The Commission and the 'GCG' should be able to have an overview of the national measures implemented by the Member States and share best practices for the coordination of measures within the risk groups. Member States should also use other bodies to coordinate their action where appropriate, such as in meetings of the Director-Generals of national energy ministries.

(18) In order to ensure that the national emergency plans reflect the voluntary or mandatory demand reduction set out in this Regulation, the competent authority of each Member State should take the necessary steps to update the national emergency plan by 31 September 2022. The update of the national emergency plan should indicate how the measures proposed in the Communication "Save Gas for a Safe Winter" of 20 July 2022 have been used. Given the short timeframe for the update, the coordination procedures pursuant to Article 8(6) to (11) should not apply. However, Member States should consult other Member States on the update of the emergency plans. The Commission should convene the GCG, the risk groups or other relevant bodies to discuss potential issues related to demand reduction measures.

(19) Regular and effective monitoring and reporting are essential for the assessment of progress made by the Member States in the implementation of the voluntary and mandatory demand reduction measures, and for measuring the social and economic impact of the measures as well as the impact on employment. The competent authority of each Member State or another entity designated by the Member State should monitor the demand-reduction achieved on their territory and regularly report the results to the Commission . The GCG should assist the Commission in the monitoring of the demand-reduction obligations.

(20) To prevent significant economic harm for the Union as a whole, it is crucial that each single Member State reduces its demand in the alert phase. This will ensure that gas is sufficient for all, even in winter-times. The demand reduction across the Union is therefore an expression of the principle of solidarity, enshrined in the Treaty. It is therefore also warranted that the Commission supervises strictly that the mandatory demand reductions are carried out by Member States. In case the Commission identifies a risk that a Member State may not be able to fulfil the mandatory demand reduction obligation pursuant to Article 5, the Commission should have the power to request the Member State to submit a plan setting out the strategy and measures to effectively reach the mandatory demand reduction obligation. The Member State should take due account of any comments and suggestions of the Commission to the plan.
As the solidarity principle gives every Member State the right to be supported by neighbouring Member States under certain circumstances, Member States who may ask for such support should also act in a spirit of solidarity when it comes to reducing their domestic gas demand. Therefore, when requesting a solidarity measure under Article 13 of Regulation (EU) 2017/1938, Member States should have implemented all appropriate gas demand reduction measures. The Commission should be empowered to request the Member State requesting a solidarity measure to submit a plan with measures to achieve possible further gas demand reductions. Due account should be taken of any comments the Commission may provide on this plan.

(21) The Commission should inform the European Parliament and the Council regularly about the implementation of this Regulation.

(22) Considering the imminent danger for the security of gas supply brought about by the Russian military aggression against Ukraine, this Regulation should enter into force on the day following that of its publication.

(23) Based on the information available, the risk of serious disruption of gas supplies to the Union is likely to be present for at least the next two winter seasons. Therefore, this Regulation should be valid for two years after its entry into force. At the end of the first year of application of this Regulation, the Commission should report on its functioning to the Council and, if appropriate, propose to prolong its validity.

(24) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States, but rather at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation establishes rules to address a situation of severe difficulties in the supply of gas, with a view to safeguarding the EU security of gas supply, in a spirit of solidarity. These provisions include improved coordination, monitoring and reporting on national gas demand reduction measures and the possibility for the Commission to declare a Union alert as a specific crisis level, triggering a compulsory Union-wide demand reduction obligation.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

(1) ‘competent authority’ means a national governmental authority or a national regulatory authority designated by a Member State to ensure the implementation of the measures provided for in Regulation (EU) 2017/1938.

(2) “Union alert” means a Union-specific crisis level triggering a mandatory demand reduction and which is not related to any of the crisis levels pursuant to Article 11(1) of Regulation (EU) 2017/1938.

Article 3

Voluntary demand reduction

Member States shall use their best efforts to reduce their national gas consumption between 1 August 2022 and 31 March 2023 at least by 15% compared to their average consumption between 1 August and 31 March during the five years preceding the entry into force of this Regulation (‘voluntary demand reduction’). Articles 6, 7 and 8 shall apply to those voluntary demand reduction measures.

Article 4

Declaration of a Union alert by the Commission

1. The Commission may declare a Union alert only when there is a substantial risk of a severe gas supply shortage or an exceptionally high demand of gas occurs, for which the measures in Article 3, as reported on according to Article 8, are not sufficient, and which results in a significant deterioration of the gas supply situation in the Union, but where the market is still able to manage that disruption without the need to resort to non-market based measures.

2. The Commission may, after consultation of the relevant risk groups, as established in Annex I of Regulation (EU) 2017/1938 and the GCG taking into account any views expressed by the Member States in that context, declare the Union alert on its own initiative or following a the request of at least three competent authorities that have declared an alert at national level pursuant to Article 11(1) of Regulation (EU) 2017/1938, or on its own initiative.

3. When the Commission considers, following an assessment, that the underlying basis for the Union alert no longer justifies the declaration of a Union alert, it shall, after consultation of the relevant risk groups, as established in Annex I to Regulation (EU) 2017/1938 and the GCG, taking into account any views expressed by the Member States in that context, declare an end to the Union alert and to the obligations pursuant to Article 5.

Article 5

Mandatory demand reduction in case of a Union alert

1. Where the Commission declares a Union alert, each Member State shall reduce its natural gas consumption in accordance with the methodology set out in paragraph 2 (‘mandatory demand reduction’).

2. For the purpose of mandatory demand reduction, for as long as the Union alert is declared, overall consumption of natural gas in each Member State over a period from 1 August of each year until 31 March of the following year ('implementation period') shall be reduced by at least 15% compared to that Member State's average consumption over the period between 1 August and 31 March ('comparison period') during the five consecutive years preceding the date of entry into force of this Regulation. Any voluntary demand reductions achieved by Member States during the implementation period before the alert was declared shall be taken into account for the purpose of the mandatory demand reduction.

3. Member States may request to limit the mandatory demand reduction by a maximum of 5%, provided they can demonstrate that they cannot, due to no or limited interconnection with other Member States, substantially contribute to increasing the direct or indirect supply of gas to other Member States.

4. Member States who request a derogation from the mandatory demand reduction pursuant to paragraph 3 shall submit evidence that their interconnector capacities with other Member States or their domestic LNG infrastructure are used to re-direct gas to other Member States to the utmost extent.

5. Before deciding on the request for a reduced mandatory demand reduction, the Commission shall consult the GCG, the risk groups and, as appropriate, other relevant bodies.

6. The Commission shall decide on the request at the latest within two months after having received all the relevant information from the Member State.

7. Articles 6, 7 and 8 shall apply to mandatory demand reduction measures.

Article 6

Measures to achieve the demand reduction

1. Member States shall be free to choose the appropriate measures to reduce demand. The measures shall be clearly defined, transparent, proportionate, non-discriminatory and verifiable. When selecting the measures, Member States shall take into account the principles set out in Regulation (EU) 2017/1938. The measures shall in particular:

   (a) not unduly distort competition or the proper functioning of the internal market in gas, or endanger the security of gas supply of other Member States or of the Union;

   (b) be market-based;

   (c) ensure uninterrupted supply of gas to protected customers or other customer groups pursuant to Articles 2(5) and 7 of Regulation (EU) 2017/1938.

2. When taking demand-reduction measures, Member States shall prioritise the measures affecting non-protected customers on the basis of objective and transparent criteria which shall take into account their economic importance as well as, among others, the following elements:

   (a) the impact of a disruption on supply chains that are critical for society;

   (b) the possible negative impacts in other Member States, in particular on supply chains of downstream sectors that are critical for society;

(c) the potential long-lasting damage to industrial installations;

(d) the possibilities to reduce consumption and substitute products in the Union.

3. When deciding the demand-reduction measures, the Member States shall consider measures to reduce gas consumed in the electricity sector, measures to encourage fuel switch in the industry, national awareness raising campaigns, and targeted obligations to reduce heating and cooling, and market-based measures to promote switching to other fuels and reduce consumption by industry.

Article 7

Coordination of demand reduction measures

1. To ensure appropriate coordination of voluntary and mandatory demand reduction measures pursuant to Articles 3 and 5, Member States shall cooperate with each other within each of the relevant risk groups.

2. The competent authority of each Member State shall update its national emergency plan established pursuant to Article 8 of Regulation (EU) 2017/1938 by [31 September 2022] at the latest, to reflect voluntary demand reductions. Each Member State shall also update its national emergency plan, as appropriate, in case of a declaration of a Union alert pursuant to Article 4. Articles 8(6) to (10) of Regulation (EU) 2017/1938 shall not apply to the updates of the national emergency plans pursuant to this paragraph.

3. Member States shall consult the Commission and the relevant risk groups before adopting the revised emergency plans. The Commission may call for meetings of the GCG and the risks groups taking into account any views expressed by the Member States in that context, to discuss issues related to national demand reduction measures.

Article 8

Monitoring and enforcement

1. The competent authority of each Member State shall monitor the implementation of the demand-reduction measures on their territory. Member States shall report on demand-reduction measures taken and demand reduction achieved to the Commission every two months and not later than by the 15th of the following month. The GCG and the risk groups shall assist the Commission in the monitoring of the voluntary and mandatory demand reduction.

2. Where the Commission identifies, on the basis of the reported demand reduction figures, a risk that a Member State will not be able to fulfil the mandatory demand reduction obligation pursuant to Article 5, the Commission shall request the Member State to submit a plan setting out a strategy and measures to effectively reach the demand reduction obligation. The Commission shall also request a Member State requesting a solidarity measure pursuant to Article 13 of Regulation (EU) 2017/1938 to submit a plan setting out the strategy and measures to achieve possible further gas demand reductions, in line with Article 13(3)(b) of Regulation (EU) 2017/1938. In both cases, the Commission shall, issue an opinion with comments and suggestions on the submitted plans of which the Member State shall take due account and inform the Council of its opinion.

3. The Commission shall inform the European Parliament and the Council regularly about the implementation of this Regulation.

Article 9

Entry into force and application

This Regulation shall enter into force on the day following that of its publication on the Official Journal of the European Union.

It shall apply for a period of two years from its entry into force.

By 1 August 2023 at the latest, the Commission shall carry out a review of this Regulation in view of the general situation of gas supply to the Union and present a report on the main findings of that review to the Council. The Commission may, based on that report, propose to prolong or shorten the validity of this Regulation.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the Council
The President