



Council of the  
European Union

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**NOTE**

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Proposal for a COUNCIL REGULATION Establishing a market correction mechanism to protect citizens and the economy against excessively high prices
	- Political agreement

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**1. INTRODUCTION**

1. On 20-21 October 2022, the European Council called for proposal for a temporary dynamic price corridor on natural gas transactions to immediately limit episodes of excessive gas prices, taking into account the safeguards set out in Article 23(2) of the draft Council Regulation proposed on 18 October 2022.
2. On 22 November 2022, the Commission presented the proposal for a Council Regulation establishing a market correction mechanism to protect citizens and the economy against excessively high prices.

## 2. STATE OF PLAY

1. The proposal was presented to the Coreper on 23 November and to the Council on 24 November 2022. The first technical discussion took place in the Working Party on Energy on 29 November and 6 December 2022.
2. The European Central Bank provided its opinion on 8 December 2022.
3. A debate on guidance for further work was held in Coreper on 2 December, based on the first revision of the text (REV 1), which was issued on 1 December. Another debate took place in Coreper on 7 December, based on the second revision of the text (REV 2) that was issued on 4 December.
4. The Member States as well as the Commission welcomed the progress and agreed to continue drafting the text in order to find the appropriate level of balance between the overall ambition of the provisions on one hand and the sufficient safeguards on the other hand.
5. Based on the input from the Member States, targeted changes were made in REV 3, which was issued on 9 December with doc. number: 15695/22.
6. The overall structure of the Regulation has been revised to clearly identify the key elements of the Market Correction Mechanism and to improve them.
7. In Article 1, the subject matter and scope were improved, in a way that reflects the discussion held by Coreper on 7 December.
8. In Article 2, the definition of the “reference price” is now more precise, indicating its components in a clear way.
9. A reference to Argus Benchmark was added to Article 3 on price monitoring to create a more robust reporting basis for the purpose of ACER price assessment. Article 3 also explains more clearly the role of ACER and the obligation of the entities that shall notify to ACER the daily LNG price assessments of specific markers.

10. Article 3a on market correction event states that once activated by ACER, the dynamic bidding limit shall apply for at least for 20 trading days, unless suspended by the Commission in accordance with Article 5 on suspension of the market correction mechanism.
11. In the same article, as requested by a vast majority of you in the previous Coreper; we have introduced the automatic element for market correction mechanism to take immediate effect once it is triggered; ACER will be required to publish a market correction notice on its website and inform of the market correction event. Regulated market operators will be required to monitor the website of ACER on daily basis.
12. Article 4 on deactivation of the market correction mechanism stipulates that the mechanism shall not be deactivated during the first twenty trading days since the market correction event. Here, the automatic element has also been added. ACER will need to publish on its website a deactivation notice, when a deactivation even occurs.
13. Article 5 on suspension of the market correction mechanism stresses that the Commission shall, by means of an implementing decision, suspend the market correction mechanism at any time when a regional or a Union emergency is declared, notably in case of a significant deterioration of the gas supply situation leading to a situation where the gas supply is insufficient to meet the remaining gas demand ('rationing'). To be clear, it is also explained in a corresponding recital that, it should not be required to act in accordance with a comitology procedure.
14. The scope of the competences of European Central Bank were clarified and adjusted to fit its competences as well as technical capabilities. This was done also to reflect the Opinion of the ECB, which was requested by the Council, and which was issued on 8 December.
15. Article 5a) on professional secrecy was added to the text.

16. Article 5b) on review clause was added, stipulating that by 1 July 2023, the Commission may assess whether the elements taken into account for the reference price, the conditions referred to in Article 3 on market correction and the dynamic bidding limit are still appropriate in the light of market and security of supply developments.
17. A number of stylistic and legal adjustments were made in order to increase the overall coherence of the text.
18. Relevant recitals were streamlined and, where needed, new recitals were added in accordance with the adjusted articles.

### 3. **CONCLUSIONS**

1. The Permanent Representatives Committee is invited to examine the latest compromise text as revised by the Presidency and set out in the doc. 15695/22, with a view to submitting it to the Extraordinary TTE Council of 13 December 2022 for a political agreement.
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