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## **COMMISSION OPINION**

**of 14.10.2019**

**under Regulation (EU) No 2017/1938, concerning measures to safeguard the security of gas supply and repealing Regulation No 994/2010, on the Emergency Plan submitted by the Competent Authority of the Hellenic Republic to the European Commission.**

(Only the Greek text is authentic)

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### 1. PROCEDURE

Articles 8(2)(a) and 8(2)(b) of Regulation (EU) 2017/1938 ("Regulation") require the Competent Authority of each Member State to establish a Preventive Action Plan ("PAP") and an Emergency Plan ("EP", together: "Plans"). In accordance with Article 9(11) of the Regulation, the Plans have to be updated every four years, unless circumstances require updates that are more frequent. The consultation provided for between Competent Authorities under Article 8(6) shall be carried out before the adoption of the Plans.

The Plans (as well as their updates) need to be based on the Risk Assessment that each Competent Authority has to adopt and notify to the Commission before the adoption of the Plans pursuant to Article 7 of the Regulation. The Risk Assessment should make a full assessment of the risks affecting the security of gas supply in the Member State on the basis of the common elements which include, inter alia, running various scenarios of exceptionally high gas demand and supply disruption.

The Competent Authority of the Hellenic Republic, the Regulatory Authority for Energy ("RAE"), has notified its Risk Assessment to the Commission pursuant to Article 7 of the Regulation on 2 August 2019.

RAE has consulted the Romanian and Bulgarian Competent Authorities on its Emergency Plan ("EP") and notified it to the Commission on 21 June 2019. RAE has still not notified its Preventive Action Plan (PAP).

After having assessed the EP, in view of the criteria mentioned in Article 8(8) and the template provided for in Annex VII to the Regulation, and having reported its main findings to the Gas Coordination Group on 19 March and 27 June 2019, the Commission makes the following remarks on the Plan.

### 2. COMMISSION'S ASSESSMENT OF THE PLAN

The Plan is in many aspects detailed and comprehensive. The Commission notes that the roles and responsibilities of the involved parties are well defined and described for all crisis levels, which shows a developed emergency system. The Commission also appreciates that the EP largely follows the template included in Annex VII of the Regulation.

Nevertheless, the Commission considers that some elements of the Plan, already partially included in the 2016 Commission opinion<sup>1</sup>, do not fully comply with the requirements of the Regulation.

## 2.1 Emergency Plan (EP)

### *Missing information on the regional dimension of the plan and on solidarity provisions*

Cooperation with other relevant Member States in the development of preparatory and mitigating measures in case of a crisis is of key importance to maximize supply security. Article 10(1)(j) of the Regulation require that the EP describes the mechanisms used to cooperate with other Member States. Moreover, Article 13 of the Regulation requires Member States to adopt, in a spirit of solidarity, a set of provisions to ensure the supply of gas to a minimum number of customers in all Member States and the conditions thereof (hereafter “solidarity obligations”). This is a last resort measure to be applied in extreme situations. Article 10(1)(m) and Annex VII point 8.3 to the Regulation require Member States to describe the arrangements in place to apply the solidarity obligations laid down in Article 13 of the Regulation.

Article 8(3) of the Regulation sets that the EP shall contain several regional chapters where a country is a member of different risk groups. According to Annex VII, these regional arrangements should be specified in point 8 of the Emergency Plan – “Regional dimension”.

The Commission notes that the chapter 8 of the EP has no content. Thus, the EP should be amended to contain these detailed provisions about regional cooperation and solidarity, for each of the risk groups where Greece participates, as defined in Annex I of the Regulation.

### *Missing information on the contribution of market and non-market based measures*

Article 10(1) of the Regulation provides for a mandatory list of elements that need to be addressed in the EP, including the identification of the contribution of market-based measures for coping with the situation at alert level and for mitigating the situation at emergency level, as well as the contribution of non-market based measures for the emergency level pursuant to Article 10(1)(h) and (i). The notified EP does include qualitative information, however, it does not include quantitative information on all of the measures. While it is true that quantitative information for some of the measures can be found in the Preventive Action Plan notified in 2018 (notably for Action A1 – demand management plan, and to a certain extent for Action A5 – Use of LNG buffer reserve for Electricity generation), this is not the case for the other measures.

More information should also be included regarding the mandatory re-gasification, by the Operator of LNG Users, of LNG Quantities that are temporarily stored in the Revithoussa LNG Facility exclusively for the benefit of protected customers.

The Commission therefore considers that RAE should amend the EP to include information in accordance with Article 10(1)(h) and 10(1)(i) of the Regulation, clearly indicating in quantitative terms the expected contribution from each of the market-based measures, as well as more information regarding the mandatory re-gasification.

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<sup>1</sup> C(2016) 2464 final

### *Completeness of the measures to be taken at the emergency level*

According to Article 10(1)(o) of the Regulation, the EP should establish a list of pre-defined actions to make gas available in the event of an emergency. The competent authority may only deviate from the pre-defined actions set out in the EP in duly justified exception circumstances (Article 11(4) of the Regulation). Consequently, the list of pre-defined actions to be included in the EP needs to be complete. This is particularly important to ensure the transparency regarding the measures to be applied in the case of a crisis and to allow all stakeholders, including neighbouring Member States, to prepare appropriately.

The EP submitted by RAE describes in its section 2.3 the measures to be applied in the case of an emergency. However, these measures are explicitly referred to as examples. According to Article 10(1)(o) and in light of the framework criteria set out in Article 8(1) of the Regulation, the measures in the EP shall be, *inter alia*, clearly defined, transparent and verifiable. A mere list of examples does not seem sufficient to comply with those provisions.

The Commission therefore considers that the Greek EP should be amended to reflect all possible measures to be applied in the case of an emergency.

### *Missing information on reporting obligations on natural gas undertakings*

Pursuant to Article 10(1)(k) of the Regulation, the EP should *detail* the reporting obligations imposed on natural gas undertakings and, where appropriate, electricity undertakings at alert and emergency levels. The Greek EP does not provide information on this point.

The Commission considers that the Greek EP should be amended to include this information.

### *Missing information on emergency tests.*

According to Article 10(3) and Annex VII to the Regulation, the EP should indicate the calendar for the emergency tests, as well as the actors involved and the relevant procedures. The notified EP does not include this information although there is a dedicated chapter to the emergency tests.

The Commission considers that the EP should be amended to include the above mentioned missing information.

## **2.2 Other comments**

Apart from the substantive remarks presented above, the Commission would like to draw the attention of RAE to some other elements of the EP, which do not necessarily raise legal concerns in terms of their compatibility with the elements mentioned in Article 8(8) of the Regulation, but which may provide useful guidance to the Competent Authority for future amendments of the Plans.

- The notified EP makes a thorough description of the roles and responsibilities of the different actors at the different crisis levels. However, for higher consistency, the Commission recommends that the flow-charts include the flows of information not only among Greece involved parties, but also with actors outside Greece: the Commission, the competent authorities of other relevant Member States, the Commission's Emergency Response Coordination Centre (ERCC), etc.

- While the notified EP briefly mentions in different chapters the exchange of information between actors in the electricity and gas sectors, the provided information remains superficial. For higher consistency, the Commission recommends to include in chapter 3 a detailed description of the mechanisms to ensure appropriate coordination between the main actors in the gas and electricity sectors.
- The Greek EP follows largely the mandatory template included in Annex VII of the Regulation. However, the procedure for the application of each measure, its flow of information and its expected contribution (currently missing, see comment in Section 2.1) should be described per measure to facilitate the reading of the EP and increase transparency regarding the application of each measure.
- The Commission advises RAE to describe with more detail the measures to mitigate the impact of a gas disruption in the electricity sector included in chapter 3. Moreover, the Commission advises to clearly indicate in which crisis level each measure can be activated.

### 3. CONCLUSION

Based on the above assessment, and in view of Article 8(8)(d) of the Regulation, the Commission concludes that some elements of the EP do not comply with certain provisions of this Regulation.

The Commission requests RAE to amend the EP taking duly into consideration the concerns expressed by the Commission in the present opinion and notify the amended EP to the Commission within three months pursuant to Article 8(9) of the Regulation.

The Commission's assessment expressed in this opinion is without prejudice to any position it may take *vis-à-vis* the Hellenic Republic as regards the compatibility of national measures with EU law, including in the context of infringement proceedings and the enforcement of European Union competition rules, including State aid rules.

The Commission will publish this opinion. The Commission does not consider the information contained herein to be confidential, in particular as it relates to the EP which is publicly available. RAE is invited to inform the Commission within five working days following receipt of the opinion whether it considers that it contains commercially sensitive information, the confidentiality of which is to be preserved.

Done at Brussels, 14.10.2019

*For the Commission*  
*Miguel ARIAS CAÑETE*  
*Member of the Commission*

**CERTIFIED COPY**  
**For the Secretary-General,**

**Jordi AYET PUIGARNAU**  
Director of the Registry  
**EUROPEAN COMMISSION**