



Brussels, 17.4.2020
C(2020) 2234 final

COMMISSION OPINION

of 17.4.2020

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

(Only the Italian text is authentic)

COMMISSION OPINION

of 17.4.2020

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

(Only the Italian text is authentic)

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) and 10 (2) 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 Italy, the Ministry of Economic Development (MiSE), notified its Risk Assessment pursuant to Article 7 of the Regulation to the Commission on 19 June 2019. The MiSE notified to the Commission on 19 December 2019 its Preventive Action Plan and Emergency Plan.

After having assessed the Plans, in view of the criteria mentioned in Article 8(8) and the templates provided for in Annex VI and VII of the Regulation, and having reported its main findings to the Gas Coordination Group on 19 March 2019, 27 June 2019, 26 September 2019 and 29 January 2020, the Commission has the following remarks on the Plans.

2. COMMISSION'S ASSESSMENT OF THE PLANS

The Plans are in many aspects detailed and comprehensive in the description of the Italian gas system and the infrastructure and supply standards.

Nevertheless, the Commission considers that some elements of the Plans, already partially included in the 2017 Commission opinion¹, do not fully comply with the requirements of the Regulation.

Templates for the Plans

Article 8(5) of the Regulation contains a legal obligation for the Plans to be developed in accordance with the templates included in Annex VI and VII of Regulation. Such templates are meant to improve the transparency, comparability and homogeneity among the Plans prepared by all Member States.

The Plans submitted by the MiSE do not follow the mandatory templates provided for in Annex VI and VII of the Regulation.

The Commission takes the view that the PAP and the EP need to be amended so they follow the templates contained in Annex VI and VII of the Regulation.

2.1 Preventive Action Plan (PAP)

Missing information on stakeholder consultation

Pursuant to Article 8(2) and Annex VI point 9 of the Regulation, the PAP should provide information on the mechanism for and results of consultations with stakeholders, including organisations representing the interests of households and organisations representing the interests of industrial gas customers.

The Italian PAP contains basic information on consultation with certain stakeholders, but there is no information on consultation with the two above-mentioned groups.

The Commission considers that the Italian PAP should be updated to include information on consultations with organisations representing the interests of households and industrial gas customers. In the event that these groups have not been consulted, additional consultations should be carried out and the results should be included in the final PAP.

Missing information on the economic impact of the preventive measures, as well as their impact on the internal market, the environment and on customers

Article 9(1) (f) to (h) as well as Annex VI points 4 and 5 of the Regulation require Member States to include in their PAP information on the economic impact of the envisaged measures as well as a description of the effects of such measures on the functioning of the internal market, the environment and consumers.

The notified PAP refers to a number of preventive measures but does not assess the expected impacts of these measures from the different perspectives stated in Article 9 (1)(f) to (h) of the Regulation.

¹ C(2017) 8593 final of 14 December 2017.

The Commission considers that the PAP should be amended to include the above-mentioned information.

Missing information on regional measures

Pursuant to Article 8(3) and Annex VI, point 10 of the Regulation, preventive action plans must contain a regional dimension with appropriate and effective cross-border measures, based on the simulation referred to in Article 7(1) and the common risk assessment.

The Italian PAP states that further to the risk assessments carried out for each of the risk groups, no regional preventive measures were agreed yet.

In light of the obligation set out in Article 8(3) and Annex VI, point 10 of the Regulation, the Commission takes the view that the PAP should be amended to include the regional measures.

2.2 Emergency Plan

Missing information on non-market based measures

According to Article 10(1)(i) and (o) of the Regulation, the EP shall identify the contribution of non-market-based measures planned for the emergency level as well as establish a list of predefined actions to make gas available in the event of an emergency.

The notified EP refers to the adoption of non-market-based measures by the competent authority, but does not quantify the expected contribution of such emergency measures to address an emergency level situation.

The Commission considers that the Italian EP should be amended to provide information on the contribution of the non-market based measures contained therein.

Missing information on solidarity arrangements

Article 13 of the Regulation requires Member States to, in a spirit of solidarity, adopt 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 of the Regulation require Member States to describe the arrangements in place to apply the solidarity obligations laid down in Article 13 of the Regulation.

The Italian EP does not include any information on arrangements in place to apply the solidarity obligations, referring only to ongoing negotiations with neighbouring Member States.

While the Commission is aware of the current on-going work with other Member States to develop the solidarity provisions and welcomes such work, the Commission considers that the EP should be amended to include the detailed provisions for the application of the solidarity obligations contained in Article 13 of the Regulation.

Missing information regarding specific measures for the electricity and district heating sectors

Pursuant to Article 10(1)(e) and Annex VII section 3 of the Regulation, the EP should indicate the measures and actions to be taken to mitigate the potential impact of a disruption of gas supply on district heating and the supply of electricity generated from gas, or indicate why such measures would not be appropriate.

The EP submitted by MiSE does not include information on such measures and actions. It does not indicate either why such measures would not be appropriate. Therefore, the Commission considers that the EP should be amended to include the details in question.

Missing information on regional measures

While the notified EP contains a brief chapter on the regional dimension, the provided information remains superficial and does not provide the level of detail on measures, procedures, and expected contributions of the measures per crisis level required pursuant to Article 8(3) and Annex VII point 8 of the Regulation.

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 Plans do not comply with certain provisions of this Regulation.

The Commission requests the MiSE to amend the Plans taking duly into consideration the concerns expressed by the Commission in the present opinion and notify the amended Plans 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* Italy 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 Plans which are publicly available. The MiSE 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, 17.4.2020

For the Commission
Kadri Simson
Member of the Commission