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## **COMMISSION OPINION**

**of 20.8.2020**

**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 Latvia to the European Commission.**

(Only the Latvian 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) 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 Latvia, the Ministry of Economy, notified its Risk Assessment pursuant to Article 7 of the Regulation to the Commission on 18 March 2019.

The Ministry of Economy notified to the Commission on 7 April 2020 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 29 January 2020 and 22 April 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 Latvian gas system, infrastructure standard and supply standard. Furthermore, the high level of regional coordination with neighbouring countries at political and technical level is very welcome.

Nevertheless, the Commission considers that some elements of the Plans do not fully comply with the requirements 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 Latvian PAP identifies the stakeholders who have been involved in the development of PAP. However, the PAP does not provide information on the mechanism for and results of consultations with stakeholders including how the comments received were considered.

The Commission considers that the Latvian PAP should be updated to include information on consultations with stakeholders, including its results and way of addressing them.

### *Missing information on the preventive measures, including the economic impact, 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 lists a number of measures linking them with the risk scenarios. The PAP, however, does not assess the expected impacts of these measures from the different perspectives as stated in Article 9 (1)(f) to (h) of the Regulation, namely effects of such measures on the functioning of the internal market, the environment and consumers.

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

## **2.2 Emergency Plan (EP)**

### *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 Latvian EP does not include any information on arrangements in place to apply the solidarity obligations, referring only to the ongoing work aiming at developing such arrangements.

While the Commission is aware that the discussions among the members of the North-Eastern risk group have started on this matter 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 on emergency tests*

Article 10(3) of the Regulation requires Member States to carry out real time response simulations of emergency situations at least once between the four-year updates of the EP. Pursuant to Article 10(3) and Annex VII point 7 of the Regulation, the EP should set out information on such emergency tests.

While the submitted EP includes general information about the emergency tests (i.e. the process how the tests are conducted), it does not include any detailed information on such tests, as requested in Annex VII point 7 of the Regulation. More specifically, it does not include the calendar for the simulations, nor does it indicate the concrete impact scenarios simulated. The Commission considers that the EP should be updated in this respect.

### **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 Ministry of Economy 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* Latvia 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 Ministry of Economy 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, 20.8.2020

*For the Commission*  
*Kadri SIMSON*  
*Member of the Commission*