

Brussels, 11 April 2025  
(OR. en)

7515/1/25  
REV 1

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Interinstitutional File:  
2025/0051(COD)

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ENER 89  
ENV 208  
CLIMA 88  
IND 93  
RECH 127  
COMPET 202  
ECOFIN 354  
CODEC 346

#### NOTE

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| From:    | General Secretariat of the Council                                                                                                                                                                                                                           |
| To:      | Permanent Representatives Committee                                                                                                                                                                                                                          |
| Subject: | Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL Amending Regulation (EU)2017/1938 as regards the role of gas storage for securing gas supplies ahead of the winter season<br>- Mandate for negotiations with the European Parliament |

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#### I. INTRODUCTION

1. On 5 March 2025, the Commission presented a proposal for a Regulation amending Regulation (EU) 2017/1938 concerning measures to safeguard the security of supply as regards the role of gas storage for securing gas supplies ahead of the winter season.
2. The proposal is intended to extend by two years the relevant gas storage filling provisions introduced in Regulation (EU) 2017/1938 by Regulation (EU) 2022/1032, which entered into force at the height of the energy crisis in 2022 and are set to expire at the end of 2025.
3. Gas storage contributes significantly to the security of supply by ensuring sufficient supply in case of disruptions or increased demand.

4. As the European gas markets remains tight with increased international competition and price volatility, sufficient gas storage levels are an important tool to reduce price shocks.

## **II. STATE OF PLAY**

5. Immediately after the presentation of the proposal, the Polish Presidency started discussions in the Energy Working Party. Work has been conducted in an accelerated manner, given the impending expiry of the existing provisions.
6. Based on the outcome of those discussions, the Presidency has submitted several revisions of the proposal, aiming to uphold and extend the mandatory filling target, adding safeguards against speculations and manipulations on the gas market, while introducing additional flexibilities deemed necessary in the light of the experience acquired in the past years.

## **III. WORK WITHIN THE EUROPEAN PARLIAMENT AND OTHER UNION BODIES**

7. In the European Parliament, the Committee on Industry, Research and Energy (ITRE) is the leader for the file. The rapporteur appointed for the file is Borys BUDKA (EPP, Poland). The Parliament should adopt its position in May 2025.
8. The European Economic and Social Committee delivered their opinion at their plenary session on 26-27 March 2025. The European Committee of the Regions have not delivered their opinion yet.

## **IV. MAIN ELEMENTS OF THE PRESIDENCY COMPROMISE PROPOSAL**

9. The draft text as set out in the annex to this note should serve as the basis for the Coreper mandate. New text is **bold** and deletions are ~~strike through~~. The most notable changes are summarised below.
10. Following Member States' requests to introduce more flexibility regarding the mandatory 90% filling target to be achieved each year on 1 November, the Presidency compromise proposal amends the deadline set in Article 6a. Instead, it introduces a timeframe during which the mandatory target needs to be met (between 1 October and 1 December).

11. Still in Article 6a, the compromise proposal introduces a 10% flexibility around the mandatory 90% filling target when market conditions are unfavourable for filling the underground gas storages. Mirroring flexibility is introduced in the current 35% target, with a corresponding flexibility of 3,88%, and to the 15% target with a corresponding flexibility of 1,66%. The flexibility around the mandatory filling target may be increased by a delegated act from the Commission in case of persistent unfavourable market conditions.
12. Additional derogations were included in the text which states that specific circumstances may allow Member States to add a 5% flexibility to the mandatory 90% target when: (i) there is a slow injection rate causing an exceptionally long injection; or (ii) the national gas production exceeds the average annual consumption over the preceding two years. Member States may use these flexibilities as long as this does not impact negatively on the functioning of the internal market in gas or the ability of directly connected Member States to supply gas to their protected customers.
13. As regards the intermediate targets within the filling trajectory, the compromise text explicitly provides for their indicative nature.

## **V. CONCLUSION**

14. In light of the above, Coreper is invited to examine the Presidency compromise text as set out in the annex to this note, solve any outstanding issues that may arise during the meeting and reach an agreement on the Coreper mandate, with the view to the forthcoming negotiations with the European Parliament.
15. In accordance with the approach to legislative transparency endorsed by Coreper on 14 July 2020<sup>[1]</sup>, and in full consistency with Regulation (EC) No 1049/2001 and the Council's Rules of Procedure, the text of the mandate thus agreed will be made public unless the Permanent Representatives Committee objects.

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<sup>[1]</sup> 9493/20

2025/0051 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**amending Regulation (EU)2017/1938 as regards the role of gas storage for securing gas**  
**supplies ahead of the winter season**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EU) 2022/1032 of the Parliament and of the Council<sup>1</sup> was adopted in reaction to the gas-supply crisis and unprecedented price increases caused by ~~the escalation of the Russian military aggression~~ **Russia's war of aggression** against Ukraine since February 2022, impelling the Union to act in a coordinated and comprehensive manner to avoid potential risks resulting from further gas-supply disruptions.

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<sup>1</sup> Regulation (EU) 2022/1032 of the European Parliament and of the Council 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, ELI: <http://data.europa.eu/eli/reg/2022/1032/oj>*).

- (2) Regulation (EU) 2022/1032 amended Regulation (EU) 2017/1938<sup>1</sup> by introducing a temporary legal framework for measures regarding the filling level of underground storage facilities to strengthen the security of gas supply in the Union, in particular gas supplies to protected customers.
- (3) Gas-storage facilities provide for 30% of the Union's gas consumption during the winter months, and well-filled underground gas-storage facilities contribute substantially to the security of gas supply by providing additional gas in the event of high demand or supply disruptions.
- (4) The laying down of a mandatory target to ensure that gas-storage facilities are 90% full by 1 November (filling target), with a series of intermediate targets for each Member State in February, May, July and September of the year thereafter (filling trajectory), proved to be fundamental amidst the energy crisis sparked by ~~the weaponisation of Russian gas supplies and invasion of Russia's war of aggression against~~ Ukraine in both: (i) weathering the gas-supply shortages; and (ii) reducing market uncertainties and price volatility.
- (5) Despite the substantial improvement of the gas market situation compared to 2022-2023 period, the European gas market remains tight. More intense competition for global LNG supplies can increase Member States exposure to price volatility. [The gas price development during the ~~winter of 2024-/2025 winter~~ ~~may~~ might confirm the trend.]<sup>2</sup> In such ~~casesituation~~, the role of gas storages remains paramount. Predictable filling trajectories increase transparency and prevent market distortion.
- (6) Pursuant to Regulation (EU) 2017/1938 the obligation of the Member States to follow an annual filling trajectory and to ensure that the filling target is achieved by 1 November of each year expires on 31 December 2025.

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<sup>1</sup> **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 (OJ L 280, 28.10.2017, p. 1–56, ELI: <http://data.europa.eu/eli/reg/2017/1938/oj>)**

<sup>2</sup> This sentence will be updated during the lawyer-linguist revision.

- (7) At the same time, the overall framework **established** to meet ~~this 1 November~~ the filling target ~~must~~ **should** be flexible enough during the filling season to allow **for** a swift reaction to constantly changing market conditions and in particular to take advantage of the best purchasing conditions. **For example, it should be possible to achieve the filling target at any point in time between 1 October and 1 December, taking into account the start of the Member States withdrawal period. Once a Member State reaches the 90% filling target in this period, it is not required to maintain that storage level until 1 December.**
- (8) The purpose of ~~the intermediary-filling trajectory~~**targets**, agreed upon each year by the Member States, is to ensure that the mandatory ~~1 November~~**filling** target is met **within the timeframe from 1 October to 1 December**. However, these **filling trajectory should be targets** ~~are~~ indicative and should allow for storage filling in such a way that there is sufficient flexibility available for market participants throughout the year, **taking into account** ~~in accordance with~~ Recommendation C(2025)1481**XXX**.
- (8a) **Member States should have the possibility to deviate by up to ten percentage points from the filling target in the case of unfavourable market conditions, such as indications of possible market manipulations, or of trading activities hindering cost-effective storage filling, that significantly limit the ability to ensure that the gas storages are filled in accordance with this Regulation.**
- (8b) **Moreover, the Commission should be empowered to adopt delegated acts to amend for one filling season the level of allowed deviation of ten percentage points by increasing it, in the case of persistent unfavourable market conditions.**
- (9) **The Commission's assessment of the current energy-security framework has confirmed the positive impact of the storage-filling requirements on the security of gas supply and those positive effects should be preserved beyond 2025.**
- (9a) **In order to maintain the security of supply and the appropriate level of filling, the Commission should continuously monitor the market and explore ways that could help meeting the filling target, for example measures of financial nature, in particular when using demand aggregation and joint purchasing mechanism.**

(10) It is therefore necessary to extend ~~by two years~~ the relevant gas storage filling provisions that provide predictability and transparency as to the utilisation of gas-storage facilities across the Union **by two years**.

(11) Regulation (EU) 2017/1938 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

*Article 1*

**Regulation (EU) 2017/1938 is amended as follows:**

**(1) in Article 2, the point (27) is replaced by the following:**

**‘(27) “filling trajectory” means a series of indicative intermediate targets for the underground gas storage facilities of each Member State set in accordance with Article 6a(7).**

**(2) Article 6a, is amended as follows :**

**(a) in paragraph 1, the first subparagraph is replaced by the following:**

**1. Subject to paragraphs 2 to 5e, Member States shall meet the following filling target for the aggregated capacity of all underground gas storage facilities that are located on their territory and directly interconnected to a market area in their territory and for storage facilities listed in Annex Ib at any point in time between 1 October and 1 December each year:<sup>1</sup>**

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<sup>1</sup> **The references to the date of 1 November will be replaced throughout the text of the gas storage Regulation in particular 6c(1) and 6c(5)(a).**

**(b) the following paragraphs are inserted:**

**5a. Notwithstanding paragraph 1 and without prejudice to the obligation of other Member States to fill the underground gas storage facilities concerned, Member States may decide to deviate, by up to ten percentage points, from the filling target set out in paragraph 1 point b for each Member State in case of unfavourable market conditions for filling underground gas storage facilities.**

**Notwithstanding paragraph 1, in addition to a possible deviation in accordance with the first subparagraph and without prejudice to the obligation of other Member States to fill the underground gas storage facilities concerned, Member States may decide to deviate, by up to five percentage points from the filling target set out in paragraph 1 point b for each Member State, if:**

**(a) their national gas production exceeds their average annual consumption over the preceding two years; or**

**(b) specific technical characteristics of an individual underground storage facility with technical capacity above 40 TWh located on its territory require a slow injection rate causing an exceptionally long injection period of more than 115 days,**

**5b. Provided that the security supply of the Union and the Member States is not undermined, the Commission is empowered to adopt delegated acts in accordance with Article 19 to amend for one filling season the level of allowed deviation of up to ten percentage points laid down in paragraph 5a first subparagraph by increasing it, in the case of persistent unfavourable market conditions. In the assessment, the Commission shall in particular take into account the level of storage filling, global gas supply, ENTSOG's seasonal supply outlook, and indications of market manipulation. In order to ensure full consistency in the filling targets applicable to Member States, the Commission shall, when increasing, in accordance with this paragraph, the level of allowed deviation laid down in paragraph 5a, first subparagraph, adapt to the same extent the volumes set out in paragraph 2 and in Article 6c paragraph 1 and paragraph 5.**

**5c. Member States may under the same conditions as those set in paragraph 5a decide to deviate by up to three percentage points and eighty-eight hundredth below the volume set out in paragraph 2.**

**5d. Member States may under the same conditions as those set out in paragraph 5a decide to deviate by up to one percentage point and sixty-six hundredth below the average annual gas consumption volume set out in Article 6c paragraph 1 and paragraph 5.**

**5e. A Member State using any of the flexibilities provided for in paragraphs 5a to 5d shall consult the Commission and provide justification immediately. The Commission shall promptly update the Gas Coordination Group on the cumulative effects of all granted flexibilities and any directly affected Member States in a timely manner.**

**A Member State may use the flexibilities provided under paragraph 5a subparagraph 2 as long as this does not impact negatively on the ability of directly connected Member States to supply gas to their protected customers or this does not impact negatively on the functioning of the internal market in gas. The Commission, in cooperation with the Member States using the flexibilities referred to in this subparagraph, shall assess the potential consequences of implementing these flexibilities, and inform the Gas Coordination Group immediately.**

**(c) paragraph 6 is replaced by the following:**

**6. In order to achieve the filling target, Member States shall strive to follow the filling trajectory set in accordance with Article 6a(7).**

**(d) paragraph 8 is replaced by the following:**

**8. The competent authority of each Member State shall take all necessary measures in accordance with Article 6b to meet the filling target. Where, in any given year, a Member State does not meet its filling target, its competent authority shall take effective measures to ensure security of supply considering the price impact on the gas market. The Member States shall inform the Commission and the Gas Coordination Group without delay, providing reasons for the failure to meet the filling target and the measures taken.**

**(e) paragraph 10 is replaced by the following:**

**10. The competent authority of each Member State may take all necessary measures in accordance with Article 6b to meet the filling trajectory, including the introduction of binding intermediate targets at national level. They shall continuously monitor alignment with the filling trajectory and inform the Gas Coordination Group regularly. The Commission shall regularly inform the Gas Coordination Group on the performance of the indicative trajectory.**

**(f) paragraph 11 is replaced by the following:**

**11. In the event of a substantial and sustained deviation by a Member State from the filling trajectory, compromising the achievement of the filling target, or in the event of a deviation from the filling target, the Commission shall where appropriate, after consulting the Gas Coordination Group and the Member States concerned, issue a recommendation to that Member State or to the other Member States concerned, regarding measures to be taken to remedy the deviation or to minimize the impact on security of supply, considering inter alia possible unfavourable market conditions and specificities of Member States, such as the technical characteristics and size of the underground gas storage facilities in relation to the domestic gas consumption, the declining importance of the underground low calorific gas storage facilities for the security of gas supply, and existing LNG storage capacity.**

**(3) in Article 6b, paragraph 2 is replaced by the following:**

**2. The measures taken by the Member States pursuant to paragraph 1 shall be limited to what is necessary to meet the filling trajectories where relevant and the filling targets. All measures taken pursuant to Article 6a(8) and 6a(10) shall be clearly defined, transparent, proportionate, non-discriminatory and verifiable. They shall 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. Member States shall inform the Commission and the Gas Coordination Group of those measures without delay.**

**(4) In Article 6c, paragraph 6 is deleted.**

**(5) Article 6d is amended as follows:**

**(a) paragraph 2 is deleted**

**(b) paragraph 4 is replaced by the following:**

**4. The Gas Coordination Group shall assist the Commission in the monitoring of the filling trajectories and the filling targets, and shall develop guidance for the Commission on adequate measures to ensure better alignment in the event that Member States deviate from the filling trajectories compromising the achievement of the filling target, or to ensure compliance with the filling target.**

**(c) paragraph 5 is replaced by the following:**

**5. Member States shall take the necessary measures to meet the filling target and to enforce upon market participants the storage obligations which are required to meet the filling target, including by imposing sufficiently deterrent sanctions and fines on those market participants.**

**(6) In Article 22 ~~of Regulation (EU) of Regulation (EU) 2017/1938~~, paragraph 4 is replaced by the following:**

**“Article 2, points (27) to (31), Articles 6a to 6d, Article 16(3), Article 17a, Article 18a, ~~and~~ Article 20(4), ~~and Annexes Ia and Ib~~ shall apply until 31 December 2027.”**

(7) ANNEX Ia is deleted.

(8) ANNEX Ib is replaced by:

“ANNEX Ib

**Shared responsibility for the filling target and the filling trajectory**

**With regard to the filling target and the filling trajectory pursuant to Article 6a, the Slovak Republic and Czechia share the responsibility concerning the storage facilities of Dolní Bojanovice. The exact ratio and extent of that responsibility of the Slovak Republic and Czechia is subject to a bilateral agreement of those Member States.**

**Without prejudice to Article 13 and in accordance with Article 11(6)(b), the Slovak Republic and Czechia shall ensure that, when a crisis is declared pursuant to this Regulation, no measures affecting the Dolni Bojanovice storage facility that are likely seriously to endanger the gas supply situation or undermine the ability of natural gas undertakings to supply gas to protected customers in line with the national gas supply standard are introduced.”**

## *Article 2*

### **Entry into force**

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ... **Brussels**,

*For the European Parliament*

*The President*

*For the Council*

*The President*