

REGULATION (EU) 2017/1938 as amended by Regulation of the European Parliament and of the Council (EU) 2022/1032 with regard to gas storage

Incorporated and adapted by the Ministerial Council Decision 2021/15/MC-EnC of 30 November 2021 on Annex I to the Treaty establishing the Energy Community and adapting and implementing Regulation (EU) 2017/1938 concerning measures to safeguard the security of gas supply and by the Ministerial Council Decision 2022/01/MC-EnC adapting and implementing the Regulation (EU) 2022/1032 with regards to gas storage.

*The adaptations made by Ministerial Council Decision 2021/15/MC-EnC and 2022/01/MC-EnC, the latter incorporating amendments included in Regulation (EU) 2022/1032 with regards to gas storage, are highlighted in **bold and blue**.*

Article 1

Subject matter

This Regulation lays down rules for cooperation between Contracting Parties with a view to preventing, mitigating and managing gas crises in full regard for the requirements of a competitive single market for gas.¹

Article 2

Definitions

(1) For the purposes of this Regulation, the following definitions apply:

- 1) 'security' means security as defined in point 32 of Article 2 of Directive 2009/73/EC, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 2) 'customer' means customer as defined in point 24 of Article 2 of Directive 2009/73/EC, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 3) 'household customer' means household customer as defined in point 25 of Article 2 of Directive 2009/73/EC, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 4) 'essential social service' means a service related to healthcare, essential social care, emergency, security, education or public administration;

¹ The text displayed here corresponds to Article 4(1) of Ministerial Council Decision 2021/15/MC-EnC

- 5) 'protected customer' means a household customer who is connected to a gas distribution network and, in addition, where the **Contracting Party** concerned so decides, may also mean one or more of the following, provided that enterprises or services as referred to in points (a) and (b) do not, jointly, represent more than 20 % of the total annual final gas consumption in that **Contracting Party**:
- a. a small or medium-sized enterprise, provided that it is connected to a gas distribution network;
 - b. an essential social service, provided that it is connected to a gas distribution or transmission network;
 - c. a district heating installation to the extent that it delivers heating to household customers, small or medium-sized enterprises, or essential social services, provided that such installation is not able to switch to other fuels than gas;
- 6) <...>²
- 7) 'competent authority' means a national governmental authority or a national regulatory authority designated by a **Contracting Party** to ensure the implementation of the measures provided for in this Regulation;
- 8) 'national regulatory authority' means a national regulatory authority designated in accordance with Article 39(1) of Directive 2009/73/EC, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 9) 'natural gas undertaking' means natural gas undertaking as defined in point 1 of Article 2 of Directive 2009/73/EC, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 10) 'gas supply contract' means gas supply contract as defined in point 34 of Article 2 of Directive 2009/73/EC, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 11) 'transmission' means transmission as defined in point 3 of Article 2 of Directive 2009/73/EC, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 12) 'transmission system operator' means transmission system operator as defined in point 4 of Article 2 of Directive 2009/73/EC, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 13) 'distribution' means distribution as defined in point 5 of Article 2 of Directive 2009/73/EC, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;

² Not applicable according to Article 4(2)a of Ministerial Council Decision 2021/15/MC-EnC

- 14) 'distribution system operator' means distribution system operator as defined in point 6 of Article 2 of Directive 2009/73/EC, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 15) 'interconnector' means interconnector as defined in point 17 of Article 2 of Directive 2009/73/EC, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 16) <...>³
- 17) 'storage capacity' means storage capacity as defined in point 28 of Article 2 of Regulation (EC) No 715/2009, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 18) 'technical capacity' means technical capacity as defined in point 18 of Article 2 of Regulation (EC) No 715/2009, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 19) 'firm capacity' means firm capacity as defined in point 16 of Article 2 of Regulation (EC) No 715/2009, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 20) 'interruptible capacity' means interruptible capacity as defined in point 13 of Article 2 of Regulation (EC) No 715/2009, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 21) 'LNG facility capacity' means LNG facility capacity as defined in point 24 of Article 2 of Regulation (EC) No 715/2009, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 22) 'LNG facility' means LNG facility as defined in point 11 of Article 2 of Directive 2009/73/EC, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 23) 'storage facility' means storage facility as defined in point 9 of Article 2 of Directive 2009/73/EC, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 24) 'system' means system as defined in point 13 of Article 2 of Directive 2009/73/EC **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 25) 'system user' means system user as defined in point 23 of Article 2 of Directive 2009/73/EC **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**;
- 26) 'ancillary services' means ancillary services as defined in point 14 of Article 2 of Directive

³ Not applicable according to Article 4(2)a of Ministerial Council Decision 2021/15/MC-EnC

2009/73/EC as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC.

27) 'Security of Supply Coordination Group' is the group established by Procedural Act 2008/02/MC-EnC of 11 December 2008 as amended by Procedural Act 2021/03/MC-EnC.⁴

28) 'filling trajectory' means a series of intermediate targets for the underground gas storage facilities of each **Contracting Party**, as listed in Annex Ia for 2022 and, for the following years, set in accordance with Article 6a;

29) 'filling target' means a binding target for the filling level of the aggregated capacity of the underground gas storage facilities

30) 'strategic storage' means underground storage or part of underground storage of non-liquefied natural gas which is purchased, managed and stored by transmission systems operators, an entity designated by the **Contracting Parties** or an undertaking, and which may be released only after prior notification or public authority authorisation for release, and is generally released in case of:

- a. major supply scarcity;
- b. a supply disruption; or
- c. the deceleration of an emergency as referred to in Article 11(1), point (c).

31) 'balancing stock' means non-liquefied natural gas which is:

- a. purchased, managed and stored underground by transmission system operators or by an entity designated by the **Contracting Party**, for the sole purposes of carrying out the functions of transmission system operators and of the security gas supply; and
- b. dispatched only where required to keep the system in operation under secure and reliable conditions in accordance with Article 13 of Directive 2009/73/EC of the European Parliament and of the Council as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC and with Articles 8 and 9 of Commission Regulation (EU) 312/2014 as adapted and adopted by Permanent High-Level Group Decision 2019/01/PHLG-EnC;

32) 'underground gas storage facility' means a storage facility as defined in Article 2, point (9), of Directive 2009/73/EC as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC, that is used for the stocking of natural gas, including balancing stock,

⁴ The text displayed here corresponds to Article 4(2)b of Ministerial Council Decision 2021/15/MC-EnC

and that is connected to a transmission or distribution system, excluding above ground spherical or linepack storage .

Article 3

Responsibility for the security of gas supply⁵

1. The security of gas supply shall be the shared responsibility of natural gas undertakings, **Contracting Parties**, in particular through their competent authorities, and the **Energy Community Secretariat**, within their respective areas of activity and competence.

2. Each **Contracting Party** shall designate a competent authority. The competent authorities shall cooperate with each other in the implementation of this Regulation. **Contracting Parties** may allow the competent authority to delegate specific tasks set out in this Regulation to other bodies. Where competent authorities delegate the task of declaring any of the crisis levels referred to in Article 11(1), they shall do so only to a public authority, a transmission system operator or a distribution system operator. Delegated tasks shall be performed under the supervision of the competent authority and shall be specified in the preventive action plan and in the emergency plan.

3. Each **Contracting Party** shall, without delay, notify the **Energy Community Secretariat**, and make public, the name of its competent authority and any changes thereto.

4. When implementing the measures provided for in this Regulation, the competent authority shall establish the roles and responsibilities of the different actors concerned in such a way as to ensure a **two-level** approach which involves, first, the relevant natural gas undertakings, electricity undertakings where appropriate, and industry, and **second, Contracting Parties** at national level <...>.

5. The **Energy Community Secretariat** shall coordinate the action of the competent authorities, pursuant to this Regulation, inter alia, through the **Security of Supply Coordination Group**.

6. <...>

7. <...>

8. <...>⁶

⁵ The text displayed here corresponds to Article 4(3) of Ministerial Council Decision 2021/15/MC-EnC

⁶ Not applicable according to Article 4(3)c of Ministerial Council Decision 2021/15/MC-EnC

Article 4

Security of Supply Coordination Group⁷

1. <...>⁸
2. The **Security of Supply Coordination Group** shall be consulted and shall assist the **Energy Community Secretariat** in particular on the following issues:
 - (a) the security of gas supply, at any time and more specifically in the event of an emergency;
 - (b) all information relevant to the security of gas supply at national <...> level;
 - (c) best practices and possible guidelines to all the parties concerned;
 - (d) the level of the security of gas supply, benchmarks and assessment methodologies;
 - (e) national <...> scenarios and testing the levels of preparedness;
 - (f) the assessment of the preventive action plans and the emergency plans, the coherence across the various plans, and the implementation of the measures provided for therein;
 - (g) the coordination of measures to deal with the Energy Community Contracting Parties <...>;
 - (h) assistance needed by the most affected **Contracting Parties**.
3. The **Energy Community Secretariat** shall convene the **Security of Supply Coordination Group** on a regular basis and shall share the information received from the competent authorities whilst preserving the confidentiality of commercially sensitive information.
4. The **Energy Community Secretariat** may convene the **Security of Supply Coordination Group** in a setting which is restricted to the representatives of the **Contracting Parties** and in particular of their competent authorities. The **Energy Community Secretariat** shall convene the **Security of Supply Coordination Group** in this restricted setting if so requested by one or more of the representatives of the **Contracting Parties** and in particular of their competent authorities. <...>

⁷ The text displayed here corresponds to Article 4(4) of Ministerial Council Decision 2021/15/MC-EnC

⁸ Not applicable according to Article 4(4)a of Ministerial Council Decision 2021/15/MC-EnC

Article 5

Infrastructure standard⁹

1. Each **Contracting Party** or, where a **Contracting Party** so provides, its competent authority shall ensure that the necessary measures are taken so that in the event of a disruption of the single largest gas infrastructure, the technical capacity of the remaining infrastructure, determined in accordance with the N – 1 formula as set out in point 2 of Annex II, is able, without prejudice to paragraph 2 of this Article, to satisfy total gas demand of the calculated area during a day of exceptionally high gas demand occurring with a statistical probability of once in 20 years. This shall be done taking into account gas consumption trends, the long-term impact of energy efficiency measures and the utilisation rates of existing infrastructure.

The obligation set out in the first subparagraph of this paragraph shall be without prejudice to the responsibility of the transmission system operators to make the corresponding investments and to the obligations of transmission system operators as laid down in Regulation (EC) No 715/2009 and Directive 2009/73/EC **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**.

2. The obligation to ensure that the remaining infrastructure has the technical capacity to satisfy total gas demand, as referred to in paragraph 1 of this Article, shall also be considered to be fulfilled where the competent authority demonstrates in the preventive action plan that a disruption of gas supply may be sufficiently compensated for, in a timely manner, by appropriate market-based demand-side measures. For that purpose, the N – 1 formula shall be calculated as set out in point 4 of Annex II.

3. <...>¹⁰

4. The transmission system operators shall enable permanent physical capacity to transport gas in both directions ('bi-directional capacity') on all interconnections between **Contracting Parties, except for existing interconnectors included in Annex III.<...>**

5. <...>¹¹

6. National regulatory authorities shall take into account the efficiently incurred costs of fulfilling the obligation set out in paragraph 1 of this Article and the costs of enabling bi-

⁹ The text displayed here corresponds to Article 4(5) of Ministerial Council Decision 2021/15/MC-EnC

¹⁰ Not applicable according to Article 4(5)a of Ministerial Council Decision 2021/15/MC-EnC

¹¹ Not applicable according to Article 4(5)c of Ministerial Council Decision 2021/15/MC-EnC

directional capacity so as to grant appropriate incentives when fixing or approving, in a transparent and detailed manner, the tariffs or methodologies in accordance with Article 13 of Regulation (EC) No 715/2009 and Article 41(8) of Directive 2009/73/EC, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**.

7. In so far as an investment for enabling or enhancing bi-directional capacity is not required by the market but is considered to be necessary for the security of gas supply purposes and where that investment incurs costs in more than one **Contracting Party** or in one **Contracting Party** for the benefit of another **Contracting Party**, the national regulatory authorities of all **Contracting Parties** concerned shall take a coordinated decision on cost allocation before any investment decision is taken. The cost allocation shall take into account the principles described and the elements contained in Article 12(4) of Regulation (EU) No 347/2013, **as adapted and adopted by Ministerial Council Decision 2015/09/MC-EnC** in particular the proportion of the benefits of the infrastructure investments for the increase of the security of gas supply of the **Contracting Parties** concerned as well as investments already made in the infrastructure in question. The cost allocation shall not unduly distort competition and the effective functioning of the **single market** and shall seek to avoid any undue distortive effect on the market.

8. The competent authority shall ensure that any new transmission infrastructure contributes to the security of gas supply through the development of a well-connected network, including, where appropriate, by means of a sufficient number of cross-border entry and exit points relative to market demand and the risks identified.

The competent authority shall assess in the risk assessment whether, with an integrated perspective on gas and electricity systems, internal bottlenecks exist and national entry capacity and infrastructure, in particular transmission networks, are capable of adapting the national and cross-border gas flows to the scenario of disruption of the single largest gas infrastructure **at national level <...>** identified in the risk assessment.

9. By way of exception from paragraph 1 of this Article, and subject to the conditions laid down in this paragraph, **Bosnia and Herzegovina and Georgia** shall not be bound by, but shall endeavour to meet, the obligation set out in that paragraph, while ensuring the gas supplies to protected customers in accordance with Article 6.

<...>

The exception for Georgia shall cease to apply once it has:

- (a) at least one interconnector with other Parties and
- (b) gas storage facilities or an LNG facility on its territory.

The exception shall cease to apply to Bosnia and Herzegovina, once it has:

- (a) gas transit to other Parties and
- (b) More than 5 % of total primary energy consumption from gas.

Bosnia and Herzegovina and Georgia shall inform the **Energy Community Secretariat** of any change affecting the conditions laid down in this paragraph. The exception laid down in this paragraph shall cease to apply where at least one of those conditions is no longer fulfilled.

As part of the national risk assessment carried out in accordance with Article 7(3) **Bosnia and Herzegovina and Georgia** shall describe the situation with respect to the respective conditions laid down in this paragraph and the prospects for compliance with the obligation in paragraph 1 of this Article, taking into account the economic impact of meeting the infrastructure standard and the gas market development. On the basis of the information provided in the national risk assessment and if the respective conditions laid down in this paragraph are still met, the **Ministerial Council, upon a proposal by the Energy Community Secretariat and acting in accordance with Article 83 of the Treaty** may decide that the exception can continue to apply for four more years. In the event of a positive decision, the procedure set out in this subparagraph shall be repeated after four years.

Article 6

Gas supply standard¹²

1. The competent authority shall require the natural gas undertakings that it identifies, to take measures to ensure the gas supply to the protected customers of the **Contracting Party** in each of the following cases:

- (a) extreme temperatures during a 7-day peak period occurring with a statistical probability of once in 20 years;

¹² The text displayed here corresponds to Article 4(6) of Ministerial Council Decision 2021/15/MC-EnC

- (b) any period of 30 days of exceptionally high gas demand, occurring with a statistical probability of once in 20 years;
- (c) for a period of 30 days in the case of disruption of the single largest gas infrastructure under average winter conditions.

By **26 February 2022**, each **Contracting Party** shall notify to the **Energy Community Secretariat** its definition of protected customers, the annual gas consumption volumes of the protected customers and the percentage that those consumption volumes represent of the total annual final gas consumption in that **Contracting Party**. Where a **Contracting Party** includes in its definition of protected customers the categories referred to in point (5)(a) or (b) of Article 2, it shall specify the gas consumption volumes corresponding to customers belonging to those categories and the percentage that each of those groups of customers represents in total annual final gas consumption.

The competent authority shall identify the natural gas undertakings referred to in the first subparagraph of this paragraph and shall specify them in the preventive action plan.

Any new non-market-based measures envisaged to ensure the gas supply standard shall comply with the procedure established in Article 9(4) to (9).

Contracting Parties may comply with the obligation laid down in the first subparagraph through the implementation of energy efficiency measures or by replacing the gas with a different source of energy, inter alia, renewable energy sources, to the extent that the same level of protection is achieved.

2. Any increased gas supply standard beyond the 30-day period referred to in points (b) and (c) of paragraph 1 or any additional obligation imposed for reasons of security of gas supply shall be based on the risk assessment, shall be reflected in the preventive action plan and shall:

- (a) comply with Article 8(1);
- (b) not impact negatively on the ability of any other **Contracting Party** to supply gas to its protected customers in accordance with this Article in the event of a national <...> emergency.
- (c) <...>. ¹³

¹³ Not applicable according to Article 4(6)c of Ministerial Council Decision 2021/15/MC-EnC

The **Energy Community Secretariat** may require a justification showing compliance of any measure referred to in the first subparagraph with the conditions laid down therein. Such a justification shall be made public by the competent authority of the **Contracting Party** that introduces the measure.

Any new non-market-based measure pursuant to the first subparagraph of this paragraph, adopted on or after **the entry into force of this Regulation** shall comply with the procedure established in Article 9(4) to (9).

3. After the expiry of the periods laid down by the competent authority in accordance with paragraphs 1 and 2, or under more severe conditions than those laid down in paragraph 1, the competent authority and natural gas undertakings shall endeavour to maintain, as far as possible, the gas supply, in particular to protected customers.

4. The obligations imposed on natural gas undertakings for the fulfilment of the gas supply standards laid down in this Article shall be non-discriminatory and shall not impose an undue burden on those undertakings.

5. <...>¹⁴. The competent authorities shall not require the gas supply standards laid down in this Article to be met based on infrastructure located only within their territory.

6. The competent authorities shall ensure that conditions for supplies to protected customers are established without prejudice to the proper functioning of the **single** energy market and at a price respecting the market value of the supplies.

Article 6a

Filling targets and filling trajectories

(1) Subject to paragraphs 2 to 5, the **Contracting Parties** shall meet the following filling targets 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 by 1 November each year:

(a) for 2022: 80%;

(b) from 2023: 90%.

For the purpose of complying with this paragraph, **Contracting Parties** shall take into account the objective of safeguarding the security of gas supply in accordance with Article 1.

¹⁴ Not applicable according to Article 4(6)d of Ministerial Council Decision 2021/15/MC-EnC

(2) Notwithstanding paragraph 1 and without prejudice to the obligations of other **Contracting Parties** to fill the underground gas storage facilities concerned, the filling target for each **Contracting Party** in which the underground gas storage facilities are located shall be reduced to a volume corresponding to 35% of the average annual gas consumption over the preceding five years for that **Contracting Party**.

(3) Notwithstanding paragraph 1 and without prejudice to the obligations of other **Contracting Parties** to fill the underground gas storage facilities concerned, the filling target for each **Contracting Party** in which the underground gas storage facilities are located shall be reduced by the volume which was supplied to **the EU Member States and** third countries during the reference period 2016 to 2021 if the average volume supplied was more than 15 TWh per year during the gas storage withdrawal period (October – April).

(4) <....>

(5) A **Contracting Party** may partially meet the filling target by counting the LNG physically stored and available in its LNG facilities if both of the following conditions are met:

(a) the gas system includes significant capacity of LNG storage, accounting annually for more than 4% of the average national consumption over the preceding five years;

(b) The **Contracting Party** has imposed an obligation on gas suppliers to store minimum volumes of gas in underground gas storage facilities and/or LNG facilities in accordance with Article 6b(1), point (a).

(6) The **Contracting Parties** shall take the necessary measures to meet the intermediate targets or to ensure that they are met as follows:

(a) for 2022 as set out in Annex Ia; and

(b) from 2023: in accordance with paragraph 7.

(7) For 2023 and the following years, each **Contracting Party** with underground gas storage facilities shall submit to the **Energy Community Secretariat**, by 15 September of the previous year, a draft filling trajectory with intermediary targets for February, May, July and September, including technical information, for the underground gas storage facilities on its territory and directly interconnected to its market area in an aggregated form. The filling trajectory and the intermediate targets shall be based on the average filling rate during the preceding five years.

For **Contracting Parties** for which the filling target is reduced to 35% of their average annual gas consumption pursuant to paragraph 2, the intermediate targets of the filling trajectory shall be reduced accordingly.

Based on the technical information provided by each **Contracting Party** and taking into account the assessment of the **Security of Supply Coordination Group, the Energy Community Secretariat**, shall adopt a **decision** setting the filling trajectory for each **Contracting Party**. That **decision** shall be adopted by 15 November of the preceding year, where necessary and including where a **Contracting Party** has submitted an updated draft filling trajectory. It shall be based on an assessment of the general security of gas supply situation and the development of gas demand and supply in the **Energy Community** and individual **Contracting Parties**, and set in a manner that safeguards the security of gas supply, while avoiding unnecessary burdens on **Contracting Parties**, gas market participants, storage system operators or customers and not unduly distorting competition between storage facilities located in neighbouring **Contracting Parties and/or** Member States.

(8) Where, in any given year, a **Contracting Party** is not able to meet its filling target by 1 November due to the specific technical characteristics of one or more underground gas storage facilities within its territory, such as exceptionally low injection rates, it shall be allowed to meet it by 1 December. The **Contracting Party** shall inform the **Energy Community Secretariat** by 1 November, providing reasons for the delay.

(9) The filling target shall not apply where and for as long as one or more **Contracting Parties with underground gas storage facilities** have declared a national emergency pursuant to **Article 11**.

(10) The competent authority of each **Contracting Party** shall continuously monitor compliance with the filling trajectory and shall report regularly to the **Security of Supply Coordination Group**. If the filling level of a given **Contracting Party** is more than five percentage points below the level of the filling trajectory, the competent authority shall, without delay, take effective measures to increase it. **Contracting Parties** shall inform the **Energy Community Secretariat** and the **Security of Supply Coordination Group** of the measures taken.

(11) In the event of substantial and sustained deviation by a **Contracting Party** from the filling trajectory, which compromises the meeting of the filling target, or in the event of a deviation from the filling target, the **Energy Community Secretariat** shall, after consulting

the **Security of Supply Coordination Group** and the **Contracting Party** concerned, issue a recommendation to that **Contracting Party** or to the other **Contracting Parties** concerned regarding the measures to be taken immediately.

Where the deviation is not significantly reduced within one month of receipt of the **Energy Community Secretariat's** recommendation, the **Secretariat** shall, after consulting the **Security of Supply Coordination Group** and the **Contracting Party** concerned, take a decision as a measure of last resort to require the **Contracting Party** concerned to take measures that effectively remedy the deviation, including, where appropriate, one or more of the measures provided for in Article 6b(1), or any other measure to ensure that the filling target pursuant to this Article is met;

In deciding which measures to take pursuant to the second subparagraph, the **Energy Community Secretariat** shall take into account the specific situation of the **Contracting Party** concerned, such as the size of the underground gas storage facilities in relation to the domestic gas consumption, the importance of the underground gas storage facilities for the security of gas supply in the region and any existing LNG storage facilities.

Any measures taken by the **Energy Community Secretariat** to address deviations from the filling trajectory or the filling target for 2022 shall take into account the short timeframe for the implementation of this Article at national level which may have contributed to the deviation from the filling trajectory or the filling target for 2022;

The **Energy Community Secretariat** shall ensure that the measures taken pursuant to this paragraph do not:

- (a) go beyond what is necessary to safeguard the security of gas supply;
- (b) place a disproportionate burden on **Contracting Parties**, gas market participants, storage system operators or customers.

Article 6b

Implementation of filling target

(1) The **Contracting Parties** shall take all necessary measures, including providing for financial incentives or compensation to market participants, to meet the filling targets set pursuant to Article 6(a). When ensuring that the filling targets are met, the **Contracting Parties** shall prioritise, when possible, market-based measures.

To the extent that any of the measures provided for in this Article are duties and powers of the national regulatory authority pursuant to Article 41 of Directive 2009/73/EC, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**, the national regulatory authorities shall be responsible for taking those measures.

Measures taken pursuant to this paragraph may, in particular, include:

- (a) requiring gas suppliers to store minimum volumes of gas in storage facilities, including in underground gas storage facilities and/or LNG storage facilities, those volumes to be determined on the basis of the amount of gas supplied by gas suppliers to protected customers;
- (b) requiring storage system operator to tender their capacities to market participants;
- (c) requiring transmission system operators or entities designed by the Contracting Party to purchase and manage balancing stock exclusively for carrying out their functions as transmission system operators and, where necessary, imposing an obligation on other designated entities for the purpose of safeguarding the security of gas supply in the case of an emergency as referred to in Article 11(1), point (c);
- (d) using coordinated instruments, such as platforms for the purchase of LNG, with other **Contracting Parties** to maximise the utilisation of LNG and to reduce infrastructure and regulatory barriers to the shared use of LNG to fill underground gas storage facilities;
- (e) using voluntary mechanisms for the joint procurement of natural gas;
- (f) providing financial incentives for market participants, including for storage system operators, such as contracts for difference, or providing compensation to market participants for the shortfall in revenues, or for costs incurred by them as a result of obligations on market participants, including storage system operators which cannot be covered by revenue;
- (g) requiring storage capacity holders to use or release unused booked capacities, while still obliging the storage capacity holder not using the storage capacity to pay the agreed price for the whole term of the storage contract;
- (h) adopting effective instruments for the purchase and management of strategic storage by public or private entities, provided that such instruments do not distort competition or the proper functioning of the internal market;
- (i) appointing a dedicated entity tasked with meeting the filling target in the event that the filling target would not otherwise be met;

- (j) providing discounts on the storage tariffs;
 - (k) collecting the revenues needed to recover the capital and operational expenditures related to regulated storage facilities as storage tariffs and as a dedicated charge incorporated into transmission tariffs collected only from exit points to final customers located within the same **Contracting Parties**, provided that revenues collected through tariffs cannot be larger than the allowed revenues;
- (2) The measures taken by the **Contracting Parties** pursuant to paragraph 1 shall be limited to what is necessary to meet the filling trajectories and filling targets. They 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 **Contracting Parties** or of the **Energy Community**.
- (3) The **Contracting Parties** shall take all necessary measures to ensure the use of the existing infrastructure at national and regional level for the benefit of security of gas supply in an efficient way. Those measures shall under no circumstances block or restrict the cross-border use of storage facilities or LNG facilities, and shall not limit cross-border transmission capacities allocated in accordance with Commission Regulation (EU) 2017/459, **as adapted and adopted by Permanent High Level Group Decision 2018/06/PHLG-EnC**.
- (4) When taking measures pursuant to this Article, the **Contracting Parties** shall apply the energy efficiency first principle, while still achieving the objectives of their respective measures, in accordance with Regulation EU 2018/1999 of the European Parliament and of the Council, **as adapted and adopted by Ministerial Council Decisions 2021/14/MC-EnC**.

Article 6c

Storage arrangements and burden-sharing mechanism

- (1) A **Contracting Party** without underground storage facilities shall ensure that market participants within that **Contracting Party** have in place arrangements with underground storage system operators or other market participants in **Contracting Parties and/or** Member States with underground gas storage facilities. Those arrangements shall provide for the use, by 1 November, of storage volumes corresponding to at least 15% of the average annual gas consumption over the preceding five years of the **Contracting Party** without underground gas storage facilities. However, where cross-border transmission capacity or other technical limitations prevent a **Contracting Party** without underground gas storage

facilities from fully using 15% of those storage volumes, that **Contracting Party** shall store only those volumes that are technically possible.

In the event, that technical limitations do not allow a **Contracting Party** to comply with the obligation laid down in the first subparagraph, and that **Contracting Party** has in place an obligation to store other fuels to replace gas, the obligation laid down in the first subparagraph may exceptionally be met by an equivalent obligation to store other fuels than gas. The technical limitations and the equivalence of the measure shall be demonstrated by the **Contracting Party** concerned.

(2) By way of derogation from paragraph 1, a **Contracting Party** without underground gas storage facilities may develop a burden-sharing mechanism with one or more **Contracting Parties and/or** Member States with underground storage facilities (burden sharing mechanism).

The burden-sharing mechanism shall be based on the relevant data from the latest risk assessment pursuant to Article 7 and shall take into account all of the following parameters:

- (a) the cost of financial support for meeting the filling target, exclusive of the costs of meeting any strategic storage obligations;
- (b) the gas volumes needed to meet the demand of protected customers in accordance with Article 6(1);
- (c) the technical limitations, including the available underground storage capacity, technical cross-border transmission capacity, and withdrawal rates.

Contracting Parties shall notify the burden sharing mechanism to the **Energy Community Secretariat and the Security of Supply Coordination Group** by 30 November 2022. In the absence of an agreement on a burden sharing mechanism by that date, **Contracting Parties** without underground gas storage facilities shall demonstrate that they comply with paragraph 1 and notify the **Energy Community Secretariat and the Security of Supply Coordination Group** accordingly.

(3) <...>

(4) **Contracting Parties** without underground storage facilities may provide incentives or financial compensation to market participants or transmission system operators, as relevant, for the shortfall in revenues, or for costs incurred by them, as a result of their compliance with their storage obligations pursuant to this Article, where such a shortfall or such costs cannot be covered by revenue, in order to ensure compliance with their obligation to store gas in

other **Contracting Parties and/or** Member States pursuant to paragraph 1 or the implementation of the burden sharing mechanism. If the incentive or financial compensation is financed through a levy, that levy shall not be applied to cross-border interconnection points.

(5) Notwithstanding paragraph 1, where a **Contracting Party** has underground gas storage facilities located on its territory and the aggregated capacity of those facilities is larger than the annual gas consumption of that **Contracting Party**, the **Contracting Parties** without underground gas storage facilities that have access to those facilities shall either:

- (a) ensure that by 1 November storage volumes correspond at least to the average usage of the storage capacity over preceding five years, determined, inter alia, by taking into account the flows during withdrawal season over preceding five years from the **Contracting Parties** where the storage facilities are located; or
- b) demonstrate that storage capacity equivalent to the volume covered by the obligation under point (a) has been booked.

If the **Contracting Party** without underground gas storage facilities can demonstrate that storage capacity equivalent to the volume covered by the obligation under point (a) of the first subparagraph has been booked, paragraph 1 shall apply.

The obligation under this paragraph shall be limited to 15% of the average annual gas consumption over preceding five years in the **Contracting Party** concerned.

(6) <...>

Article 6d

Monitoring and enforcement

(1) Storage system operators shall report the filling level to the competent authority in each **Contracting Party** where the underground gas storage facilities concerned are located and, if applicable, to an entity designated by that **Contracting Party** (the “designated entity”) as follows:

- (a) for 2022: on each of the intermediate targets set out in Annex Ia; and
- (b) from 2023: as set pursuant to Article 6a(4).

(2) The competent authority and, if applicable, the designated entity of each **Contracting Party** shall monitor the filling levels of the underground gas storage facilities on their territory

at the end of each month and report the results to the **Energy Community Secretariat** without undue delay.

The **Energy Community Secretariat** may where appropriate, invite the **Energy Community Regulatory Board** to assist with such monitoring.

(3) Based on the information provided by the competent authority and, if applicable, the designated entity of each **Contracting Party**, the **Energy Community Secretariat** shall report regularly to the **Security of Supply Coordination Group**.

(4) The **Security of Supply Coordination Group** shall assist the **Energy Community Secretariat** in the monitoring of the filling trajectories and targets, and shall develop guidance for the **Energy Community Secretariat** on adequate measures to ensure compliance in the event that **Contracting Parties** deviate from the filling trajectories or do not meet the filling targets.

(5) **Contracting Parties** shall take the necessary measures to meet the filling trajectories and the filling targets and to enforce upon market participants the storage obligations which are required to meet them, including by imposing sufficiently deterrent sanctions and fines on those market participants.

Contracting Parties shall inform the **Energy Community Secretariat** without delay of the enforcement measures taken pursuant to this paragraph.

(6) Where commercially sensitive information is to be exchanged, the **Energy Community Secretariat** may convene meetings of the **Security of Supply Coordination Group** that are restricted to **Contracting Parties**, and the **Energy Community Secretariat**.

(7) Any information exchanged shall be limited to that which is necessary for the purpose of monitoring compliance with this Regulation.

The **Energy Community Secretariat**, the national regulatory authorities and the **Contracting Parties** shall preserve the confidentiality of commercially sensitive information received for the purposes of carrying out their obligations.

Article 7

Risk assessment¹⁵

¹⁵ The text displayed here corresponds to Article 4(7) of Ministerial Council Decision 2021/15/MC-EnC

<...>

<...>¹⁶

The competent authority of each **Contracting Party** shall make a national risk assessment ('national risk assessment') of all relevant risks affecting the security of gas supply. <...>

The risk assessments referred to in paragraphs 2 and 3 of this Article shall be carried out, as relevant, by:

- (a) using the standards specified in Articles 5 and 6. The risk assessment shall describe the calculation of the N – 1 formula at national level <...>. The risk assessment shall also include assumptions used, including where applicable those for the calculation of N-1 formula at regional level, and the data necessary for such calculation. The calculation of the N – 1 formula at national level shall be accompanied by a simulation of disruption of the single largest gas infrastructure using hydraulic modelling for the national territory as well as by a calculation of the N – 1 formula considering the level of gas in storages at 30 % and 100 % of the maximum working volume;
- (b) taking into account all relevant national and transnational circumstances, in particular market size, network configuration, actual flows, including outflows from the **Contracting Parties** concerned, the possibility of physical gas flows in both directions including the potential need for consequent reinforcement of the transmission system, the presence of production and storage **or LNG terminal** and the role of gas in the energy mixes, in particular with respect to district heating and electricity generation and for the operation of industries, and safety and gas quality considerations;
- (c) running various scenarios of exceptionally high demand for gas and disruption of gas supply, taking into account the history, probability, season, frequency and duration of their occurrence and assessing their likely consequences, such as:
 - (i) disruption of the infrastructure relevant to the security of gas supply, in particular transmission infrastructure, storages or LNG terminals, including the largest gas infrastructure identified for the calculation of N – 1 formula; and
 - (ii) disruption of supplies from third-country suppliers, as well as, where appropriate, geopolitical risks;
- (d) identifying the interaction and correlation of risks with other **Contracting Parties**,

¹⁶ Not applicable according to Article 4(7)a of Ministerial Council Decision 2021/15/MC-EnC

- as appropriate, including, as regards interconnections, cross-border supplies, cross-border access to storage **or LNG** facilities and bi-directional capacity;
- (e) taking into account risks relating to the control of infrastructure relevant to the security of gas supply to the extent that they may involve, inter alia, risks of underinvestment, undermining diversification, misuse of existing infrastructure or an infringement of **Energy Community** law;
 - (f) taking into account the maximal interconnection capacity of each border entry and exit point and various filling levels for storage.
 - (g) taking into account scenarios of a prolonged disruption of a single supply source.

The national risk assessments shall be prepared in accordance with the relevant template set out in Annex V. If necessary, **Contracting Parties** may include additional information **such as ENTSOG Union-wide simulation of gas supply and infrastructure disruption scenarios as carried out in accordance with paragraph 1¹⁷. <...>**

Natural gas undertakings, industrial gas customers, the relevant organisations representing the interests of household and industrial gas customers as well as **Contracting Parties** and, where they are not the competent authorities, the national regulatory authorities, shall cooperate with the competent authorities and provide them upon request with all necessary information for the common and national risk assessments.

By 1 January 2024 Contracting Parties shall notify to the **Energy Community Secretariat** the national risk assessments. The risk assessments shall be updated every four years thereafter unless circumstances warrant more frequent updates. The risk assessments shall take account of progress made in investments needed to cope with the infrastructure standard defined in Article 5 and of country- specific difficulties encountered in the implementation of new alternative solutions. They shall also build on the experience acquired through the simulation of the emergency plans contained in Article 10(3).

¹⁷ The text displayed here corresponds to Article 3(3)(b) of Ministerial Council Decision 2022/01/MC-EnC

Article 8

Establishment of preventive action plans and emergency plans¹⁸

1. The measures to ensure the security of gas supply contained in a preventive action plan and an emergency plan shall be clearly defined, transparent, proportionate, non-discriminatory and verifiable, shall not unduly distort competition or the effective functioning of the **single** market in gas and shall not endanger the security of gas supply of **other Contracting Parties<...>**.

2. The competent authority of each **Contracting Party** shall, after consulting the natural gas undertakings, the relevant organisations representing the interests of household and industrial gas customers, including electricity producers, electricity transmission system operators, and, where it is not the competent authority, the national regulatory authority, establish:

- (a) a preventive action plan containing the measures needed to remove or mitigate the risks identified, including the effects of energy efficiency and demand-side measures in the **<...>** national risk assessments and in accordance with Article 9;
- (b) an emergency plan containing the measures to be taken to remove or mitigate the impact of a disruption of gas supply in accordance with Article 10.

3. **<...>**¹⁹.

4. The competent authorities shall report regularly to **the Security of Supply Coordination Group** on the progress achieved on the preparation and adoption of the preventive action plans and the emergency plans.

The competent authorities shall ensure the regular monitoring of the implementation of the preventive action plan and the emergency plan.

The preventive action plan and the emergency plan shall be developed in accordance with the templates contained in Annexes VI and VII. <...>

5. **<...>**

6. **<...>**²⁰

7. The preventive action plans and the emergency plans shall be made public and notified

¹⁸ The text displayed here corresponds to Article 4(8) of Ministerial Council Decision 2021/15/MC-EnC

¹⁹ Not applicable according to Article 4(8)b of Ministerial Council Decision 2021/15/MC-EnC

²⁰ Not applicable according to Article 4(8)d of Ministerial Council Decision 2021/15/MC-EnC

to the **Energy Community Secretariat** by **1 May 2024**. The **Energy Community Secretariat** shall inform **the Security of Supply Coordination Group** about the notification of the plans and publish them on **the Energy Community's** website.

Within four months of the notification by the competent authorities, the **Energy Community Secretariat** shall assess the plans taking into account the views expressed in **the Security of Supply Coordination Group**.

8. The **Energy Community Secretariat** shall issue an opinion to the competent authority with the recommendation to review a preventive action plan or an emergency plan if one or more of the following applies:

- (a) it is not effective to mitigate the risks as identified in the risk assessment;
- (b) it is inconsistent with the risk scenarios assessed or with the plans of another **Contracting Party**;
- (c) it does not comply with the requirement laid down in paragraph 1 not unduly to distort competition or the effective functioning of the **single** market;
- (d) it does not comply with the provisions of this Regulation or other provisions of **Energy Community** law.

9. Within three months of notification of the **Energy Community Secretariat's** opinion referred to in paragraph 8, the competent authority concerned shall notify the amended preventive action plan or the emergency plan to the **Energy Community Secretariat**, or shall inform the **Energy Community Secretariat** of the reasons for which it disagrees with the recommendations.

In the event of disagreement related to elements referred to in paragraph 8, the **Energy Community Secretariat** may, within four months of the reply of the competent authority, withdraw its request or convene the competent authority and, where the **Energy Community Secretariat** considers it to be necessary, the **Security of Supply Coordination Group**, in order to consider the issue. The **Energy Community Secretariat** shall set out its detailed reasons for requesting any amendments to the preventive action plan or the emergency plan. The competent authority concerned shall take full account of the detailed reasons of the **Energy Community Secretariat**.

Where applicable, the competent authority concerned shall without delay amend and make the amended preventive action plan or emergency plan public.

Where the final position of the competent authority concerned diverges from the **Energy Community Secretariat** 's detailed reasons that competent authority shall provide and make

public, together with its position and the **Energy Community Secretariat**'s detailed reasons, the justification underlying its position within two months of receipt of the detailed reasons of the **Energy Community Secretariat**.

10. For non-market-based measures adopted on or after **entry into force of the Regulation**, the procedure set out in Article 9(4), (6), (8) and (9) shall apply.

11. The confidentiality of commercially sensitive information shall be preserved.

12. Preventive action plans and emergency plans developed **before entry in the force of this Regulation**, shall remain in force until the preventive action plans and the emergency plans referred to in paragraph 1 of this Article are established for the first time.

Article 9

Content of preventive action plans²¹

1. The preventive action plan shall contain:
 - (a) the results of the risk assessment and a summary of the scenarios considered, as referred to in point (c) of Article 7(4);
 - (b) the definition of protected customers and the information described in the second subparagraph of Article 6(1);
 - (c) the measures, volumes and capacities needed to fulfil the infrastructure and gas supply standards laid down in Articles 5 and 6, including, where applicable, the extent to which demand-side measures can sufficiently compensate, in a timely manner, for a disruption of gas supply as referred to in Article 5(2), <...> the necessary gas volumes per category of protected customers and per scenario as referred to in Article 6(1), and any increased gas supply standard including any justification showing compliance with the conditions laid down in Article 6(2) <...>;
 - (d) obligations imposed on natural gas undertakings, electricity undertakings where appropriate, and other relevant bodies likely to have an impact on the security of gas supply, such as obligations for the safe operation of the gas system;
 - (e) other preventive measures designed to address the risks identified in the risk assessment, such as those relating to the need to enhance interconnections between neighbouring **Contracting Parties**, to further improve energy efficiency, to

²¹ The text displayed here corresponds to Article 4(9) of Ministerial Council Decision 2021/15/MC-EnC

- reduce gas demand and the possibility to diversify gas routes and sources of gas supply and the regional utilisation of existing storage and LNG capacities, if appropriate, in order to maintain gas supply to all customers as far as possible;
- (f) information on the economic impact, effectiveness and efficiency of the measures contained in the plan, including the obligations referred to in point (k);
 - (g) a description of the effects of the measures contained in the plan on the functioning of the **single** energy market as well as national markets, including the obligations referred to in point (k);
 - (h) a description of the impact of the measures on the environment and on customers;
 - (i) the mechanisms to be used for cooperation with other **Contracting Parties**, including the mechanisms for preparing and implementing preventive action plans and emergency plans;
 - (j) information on existing and future interconnections and infrastructure, including those providing access to the **single** market, cross-border flows, cross-border access to storage and LNG facilities and the bi-directional capacity, in particular in the event of an emergency;
 - (k) information on all public service obligations that relate to the security of gas supply.

Critical information relating to points (a), (c) and (d) of the first subparagraph which, if revealed, could endanger the security of gas supply, may be excluded.

2. <...>²²

3. The preventive action plan shall be based primarily on market-based measures and shall not put an undue burden on natural gas undertakings, or negatively impact on the functioning of the **single** market in gas.

4. **Contracting Parties**, and in particular their competent authorities, shall ensure that all preventive non-market-based measures, such as those referred to in Annex VIII, adopted on or after **entry into force of the Regulation**, irrespective of whether they are part of the preventive action plan or adopted subsequently, comply with the criteria laid down in the first subparagraph of Article 6(2).

5. The competent authority shall make public any measure referred to in paragraph 4

²² Not applicable according to Article 4(9)b of Ministerial Council Decision 2021/15/MC-EnC

which has not yet been included in the preventive action plan, and shall notify to the **Energy Community Secretariat** the description of any such measure and of its impact on the national gas market and, to the extent possible, on the gas markets of other **Contracting Parties**.

6. If the **Energy Community Secretariat** doubts whether a measure referred to in paragraph 4 of this Article complies with the criteria laid down in the first subparagraph of Article 6(2) it shall request from the **Contracting Party** concerned the notification of an impact assessment.

7. An impact assessment pursuant to paragraph 6 shall cover at least the following:

- (a) the potential impact on the development of the national gas market and competition at national level;
- (b) the potential impact on the **single** gas market;
- (c) the potential impact on the security of gas supply of neighbouring **Contracting Parties**, in particular for those measures that could reduce the liquidity in regional markets or restrict flows to neighbouring **Contracting Parties**;
- (d) the costs and benefits, assessed against alternative market-based-measures;
- (e) an assessment of necessity and proportionality in comparison with possible market-based measures;
- (f) an appreciation whether the measure ensures equal possibilities for all market participants;
- (g) a phase-out strategy, the expected duration of the envisaged measure and an appropriate review calendar.

The analysis referred to in points (a) and (b) shall be carried out by the national regulatory authority. The impact assessment shall be made public by the competent authority and shall be notified to the **Energy Community Secretariat**.

8. Where the **Energy Community Secretariat** considers, based on the impact assessment that the measure is likely to endanger the security of gas supply of other **Contracting Parties** <...> it shall **issue an opinion** within four months of notification of the impact assessment requiring, to the extent necessary, the amendment or withdrawal of the measure.

The adopted measure shall enter into force only when it <...> has been amended in accordance with the **Energy Community Secretariat's opinion**.

The four-month period shall begin on the day following receipt of a complete notification. The four-month period may be extended with the consent of both the **Energy Community Secretariat** and the competent authority.

9. Where the **Energy Community Secretariat** considers, based on the impact assessment, that the measure does not comply with the criteria laid down in the first paragraph of Article 6(2), <...> the procedure set out in Article 8 <...> (9) shall apply.

<...>

10. Article 8(9) shall apply to any measure subject to paragraphs 6 to 9 of this Article.

11. The preventive action plan shall be updated every four years after **1 May 2024** or more frequently if the circumstances so warrant or at the **Energy Community Secretariat's** request. The updated plan shall reflect the updated risk assessment and the results of the tests carried out in accordance with Article 10(3). Article 8 shall apply to the updated plan.

Article 10

Content of emergency plans²³

1. The emergency plan shall:
 - (a) build upon the crisis levels referred to in Article 11(1);
 - (b) define the role and responsibilities of natural gas undertakings, transmission system operators for electricity if relevant and of industrial gas customers including relevant electricity producers, taking account of the different extent to which they are affected in the event of a disruption of gas supply, and their interaction with the competent authorities and where appropriate with the national regulatory authorities at each of the crisis levels referred to in Article 11(1);
 - (c) define the role and responsibilities of the competent authorities and of the other bodies to which tasks have been delegated as referred to in Article 3(2) at each of the crisis levels referred to in Article 11(1);
 - (d) ensure that natural gas undertakings and industrial gas customers including relevant electricity producers are given sufficient opportunity to respond to the crisis levels referred to in Article 11(1);

²³ The text displayed here corresponds to Article 4(10) of Ministerial Council Decision 2021/15/MC-EnC

- (e) identify, if appropriate, 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, including through an integrated view of energy systems operations across electricity and gas if relevant;
- (f) establish detailed procedures and measures to be followed for the crisis levels referred to in Article 11(1), including the corresponding schemes on information flows;
- (g) designate a crisis manager and define its role;
- (h) identify the contribution of market-based measures for coping with the situation at alert level and mitigating the situation at emergency level;
- (i) identify the contribution of non-market-based measures planned or to be implemented for the emergency level, and assess the degree to which the use of such non-market-based measures is necessary to cope with a crisis. The effects of the non-market-based measures shall be assessed and procedures for their implementation defined. Non-market-based measures are to be used only when market-based mechanisms alone can no longer ensure supplies, in particular to protected customers <...> ;
- (j) describe the mechanisms used to cooperate with other **Contracting Parties** for the crisis levels referred to in Article 11(1) and information exchange arrangements between the competent authorities;
- (k) detail the reporting obligations imposed on natural gas undertakings and, where appropriate, electricity undertakings at alert and emergency levels;
- (l) describe the technical or legal arrangements in place to prevent undue gas consumption of customers who are connected to a gas distribution or transmission network but not protected customers;
- (m) <...>;
- (n) <...>²⁴
- (o) establish a list of predefined actions to make gas available in the event of an emergency, including commercial agreements between the parties involved in such actions and the compensation mechanisms for natural gas undertakings where appropriate, taking due account of the confidentiality of sensitive data. <...>.

²⁴ Not applicable according to Article 4(10)a of Ministerial Council Decision 2021/15/MC-EnC

In order to prevent undue gas consumption during an emergency, as referred to in point (l) of the first subparagraph, or during the application of the measures referred to in Article 11(3) <...>, the competent authority of the **Contracting Party** concerned shall inform customers who are not protected customers that they are required to cease or reduce their gas consumption without creating technically unsafe situations.

2. The emergency plan shall be updated every four years after **1 May 2024** or more frequently if circumstances so warrant or at the **Energy Community Secretariat's** request. The updated plan shall reflect the updated risk assessment and the results of the tests carried out in accordance with paragraph 3 of this Article. Article 8(4) to (11) shall apply to the updated plan.

3. The measures, actions and procedures contained in the emergency plan shall be tested at least once between its four-year updates referred to in paragraph 2. In order to test the emergency plan, the competent authority shall simulate high and medium impact scenarios and responses in real time in accordance with that emergency plan. The results of the tests shall be presented at the **Security of Supply Coordination Group** by the competent authority.

4. The emergency plan shall ensure that cross-border access to infrastructure in accordance with Regulation (EC) No 715/2009 **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**, is maintained as far as technically and safely possible in the event of an emergency and shall not introduce any measure unduly restricting the flow of gas across borders.

Article 11

Declaration of a crisis

1. There shall be the following three crisis levels:
 - (a) early warning level ('early warning'): where there is concrete, serious and reliable information that an event which is likely to result in significant deterioration of the gas supply situation may occur and is likely to lead to the alert or the emergency level being triggered; the early warning level may be activated by an early warning mechanism;
 - (b) alert level ('alert'): where a disruption of gas supply or exceptionally high gas demand which results in significant deterioration of the gas supply situation occurs but the market is still able to manage that disruption or demand without the need to

resort to non-market-based measures;

(c) emergency level ('emergency'): where there is exceptionally high gas demand, significant disruption of gas supply or other significant deterioration of the gas supply situation and all relevant market-based measures have been implemented but the gas supply is insufficient to meet the remaining gas demand so that non-market-based measures have to be additionally introduced with a view, in particular, to safeguarding gas supplies to protected customers in accordance with Article 6.

2. When the competent authority declares one of the crisis levels referred to in paragraph 1, it shall immediately inform the **Energy Community Secretariat** as well as the competent authorities of the **Contracting Parties** with which the **Contracting Party** of that competent authority is directly connected and provide them with all the necessary information, in particular with information on the action it intends to take <...>.

3. <...>²⁵

4. When the competent authority declares an emergency it shall follow the pre-defined action as set out in its emergency plan and shall immediately inform the **Energy Community Secretariat** <...> and the competent authorities of the **Contracting Parties** with which the **Contracting Party** of that competent authority is directly connected in particular of the action it intends to take. In duly justified exceptional circumstances, the competent authority may take action deviating from the emergency plan. The competent authority shall immediately inform the **Energy Community Secretariat** and <...> the competent authorities of the **Contracting Parties** with which the **Contracting Party** of that competent authority is directly connected, of any such action and shall provide a justification for the deviation.

5. The transmission system operator shall ensure that when an emergency is declared in a neighbouring **Contracting Party**, capacity at interconnection points to that **Contracting Party**, irrespective of whether firm or interruptible, and whether it has been booked before or during the emergency, has priority over competing capacity at exit points into storage facilities. The system user of the prioritised capacity shall promptly pay fair compensation to the system user of the firm capacity for the financial loss incurred as a result of prioritisation including a proportionate reimbursement for the cost of the firm capacity being interrupted. The process of determining and paying the compensation shall not affect the implementation of the priority rule.

6. The **Contracting Parties** and, in particular, the competent authorities shall ensure

²⁵ Not applicable according to Article 4(11)b of Ministerial Council Decision 2021/15/MC-EnC

that:

- (a) no measures are introduced which unduly restrict the flow of gas within the **single** market at any time;
- (b) no measures are introduced that are likely seriously to endanger the gas supply situation in another **Contracting Party**; and
- (c) cross-border access to infrastructure in accordance with Regulation (EC) No 715/2009 **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC²⁶**, is maintained as far as technically and safely possible, in accordance with the emergency plan.

7. During an emergency and on reasonable grounds, upon a request of the relevant electricity or gas transmission system operator a **Contracting Party** may decide to prioritise the gas supply to certain critical gas-fired power plants over the gas supply to certain categories of protected customers, if the lack of gas supply to such critical gas-fired power plants either:

- (a) could result in severe damage in the functioning of the electricity system; or
- (b) would hamper the production and/or transportation of gas. **Contracting Parties** shall base any such measure on the risk assessment.

Critical gas-fired power plants as referred to in the first subparagraph shall be clearly identified together with the possible gas volumes that would be subject to such a measure and included in the regional chapters of the preventive action plans and emergency plans. Their identification shall be carried out in close cooperation with transmission system operators of the electricity system and the gas system of the **Contracting Party** concerned.

8. The **Energy Community Secretariat** shall verify, as soon as possible, but in any case within five days of receiving the information referred to in paragraph 2 from the competent authority, whether the declaration of an emergency is justified in accordance with point (c) of paragraph 1 and whether the measures taken follow as closely as possible the actions listed in the emergency plan and are not imposing an undue burden on natural gas undertakings and are in accordance with paragraph 6. The **Energy Community Secretariat** may, at the request of another competent authority, natural gas undertakings or on its own initiative, request the competent authority to modify the measures where they are contrary to the conditions referred to in the first sentence of this paragraph. The **Energy Community**

²⁶ The text displayed here corresponds to Article 4(11)d of Ministerial Council Decision 2021/15/MC-EnC

Secretariat may also request the competent authority to declare an end to the emergency where it concludes that the declaration of an emergency is not or is no longer justified in accordance with point (c) of paragraph 1.

Within three days of notification of the **Energy Community Secretariat** request, the competent authority shall modify the measures and shall notify the **Energy Community Secretariat** thereof, or shall inform the **Energy Community Secretariat** of the reasons for which it disagrees with the request. In the latter case, the **Energy Community Secretariat** may, within three days of being informed, amend or withdraw its request or, in order to consider the issue, convene the competent authority or, where appropriate, the competent authorities concerned, and, where the **Energy Community Secretariat** considers it to be necessary, the **Security of Supply Coordination Group**. The **Energy Community Secretariat** shall set out its detailed reasons for requesting any modification to the action. The competent authority shall take full account of the position of the **Energy Community Secretariat**. Where the final decision of the competent authority diverges from the **Energy Community Secretariat** position, the competent authority shall provide the reasons underlying such decision.

9. When the competent authority declares an end to one of the crisis levels referred to in paragraph 1, it shall inform **the Energy Community Secretariat** as well as the competent authorities of the **Contracting Parties** with which the **Contracting Party** of that competent authority is directly connected.

Article 12

<...>²⁷

Article 13

<...>²⁸

Article 14

Information exchange²⁹

1. Where a **Contracting Party** has declared one of the crisis levels referred to in Article

²⁷ Not applicable according to Article 4(16) of Ministerial Council Decision 2021/15/MC-EnC

²⁸ Not applicable according to Article 4(16) of Ministerial Council Decision 2021/15/MC-EnC

²⁹ The text displayed here corresponds to Article 4(12) of Ministerial Council Decision 2021/15/MC-EnC

11(1), the natural gas undertakings concerned shall make available, on a daily basis, in particular the following information to the competent authority of the **Contracting Party** concerned:

- (a) the daily gas demand and gas supply forecasts for the following three days, in million cubic meters per day (mcm/d);
- (b) the daily flow of gas at all cross-border entry and exit points as well as at all points connecting a production facility, a storage facility or an LNG terminal to the network, in million cubic meters per day (mcm/d);
- (c) the period, expressed in days, for which it is expected that supply of gas to protected customers can be ensured.

2. <...>³⁰

3. After an emergency, the competent authority referred to in paragraph 1 shall, as soon as possible and at the latest six weeks after the lifting of the emergency, provide the **Energy Community Secretariat** with a detailed assessment of the emergency and the effectiveness of the measures implemented, including an assessment of the economic impact of the emergency, the impact on the electricity sector and the assistance provided to or received from, <...> the **Contracting Parties**. Such assessment shall be made available to the **Security of Supply Coordination Group** and shall be reflected in the updates of the preventive action plans and the emergency plans.

The **Energy Community Secretariat** shall analyse the assessments of the competent authorities and shall inform the **Contracting Parties**, the **Ministerial Council** and the **Security of Supply Coordination Group**, of the results of its analysis in an aggregated form.

4. In duly justified circumstances irrespective of a declaration of an emergency, the competent authority of the most affected **Contracting Party** may require natural gas undertakings to provide the information referred to in paragraph 1 or additional information necessary to assess the overall situation of the gas supply in the **Contracting Party** or other Member States and **Contracting Parties**, including contractual information, other than price information. The **Energy Community Secretariat** may request from the **Contracting Party's** competent authorities the information provided by natural gas undertakings under this

³⁰ Not applicable according to Article 4(12)a of Ministerial Council Decision 2021/15/MC-EnC

paragraph, provided that the same information has not been transmitted already to the **Energy Community Secretariat**.

5. <....>³¹

6. In order for the competent authorities and the **Energy Community Secretariat** to assess the security of gas supply situation at national <...> level, each natural gas undertaking shall notify:

(a) to the competent authority concerned the following details of gas supply contracts with a cross-border dimension and a duration of more than one year which it has concluded to procure gas:

- (i) contract duration;
- (ii) yearly contracted volumes;
- (iii) contracted maximum daily volumes in the event of an alert or emergency;
- (iv) contracted delivery points;
- (v) minimum daily and monthly gas volumes;
- (vi) conditions for the suspension of gas deliveries.
- (vii) an indication whether the contract individually or cumulatively with its contracts with the same supplier or its affiliates is equivalent to or exceeds the threshold of 28 % as referred to in point (b) of paragraph 6 in the most affected **Contracting Party**.

(b) to the competent authority of the most affected **Contracting Party** immediately after their conclusion or modification its gas supply contracts with a duration of more than one year, concluded or modified on or after **entry into force of the Regulation** that individually or cumulatively with its contracts with the same supplier or its affiliates is equivalent to 28 % or more of yearly gas consumption in **Contracting Party** to be calculated on the basis of the most recent available data. In addition, by **1 January 2024** natural gas undertakings shall notify the competent authority of all existing contracts fulfilling the same conditions. The notification obligation shall not cover price information and shall not apply to the modifications related only to the gas price. The notification obligation shall also apply to all commercial agreements that are relevant for the execution of the gas supply contract excluding price information.

The competent authority, shall notify the data listed in point (a) of the first subparagraph to

³¹ Not applicable according to Article 4(12)a of Ministerial Council Decision 2021/15/MC-EnC

the **Energy Community Secretariat** in an anonymised form. In the event of new contracts being concluded or changes being made to existing contracts, the whole set of data shall be notified by the end of September of the relevant year. Where the competent authority has doubts whether a given contract obtained under point (b) of the first subparagraph puts the security of gas supply of a **Contracting Party**, it shall notify the contract to **Energy Community Secretariat**.

In circumstances duly justified by the need to guarantee transparency of key gas supply contracts relevant to the security of gas supply, and where the competent authority of the most affected **Contracting Party** or the **Energy Community Secretariat** considers that a gas supply contract may jeopardise the security of gas supply of a **Contracting Party <...>** the competent authority of the **Contracting Party** or the **Energy Community Secretariat** may request the natural gas undertaking to provide the contract, excluding price information, for the assessment of its impact on the security of gas supply. The request shall be reasoned and may cover also details of any other commercial agreements that are relevant for the execution of the gas supply contract excluding price information. The justification shall include the proportionality of the administrative burden involved.

The competent authorities that receive information on the basis of point (b) of paragraph 6 or paragraph 7 of this Article shall assess the received information for security of gas supply purposes within three months and submit the results of their assessment to the **Energy Community Secretariat**.

The competent authority shall take into account the information received under this Article in the preparation of the risk assessment, preventive action plan and emergency plan or their respective updates. The **Energy Community Secretariat** may adopt an opinion proposing to the competent authority to amend the risk assessments or plans on the basis of the information received under this Article. The competent authority concerned shall review the risk assessment and the plans concerned by the request in accordance with the procedure set out in Article 8(9).

By **1 July 2024** the **Contracting Parties** shall lay down the rules on penalties applicable to infringements by natural gas undertakings of paragraph 6 or 7 of this Article and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

For the purpose of this Article, ‘the most affected **Contracting Party**’ shall mean a **Contracting Party** where a contract party of a given contract has the most of its sales of gas or customers located.

All contracts or contractual information received on the basis of paragraphs 6 and 7 as well as the respective assessments by the competent authorities or the **Energy Community Secretariat** shall remain confidential. The competent authorities and the **Energy Community Secretariat** shall ensure full confidentiality.

Article 15

Professional secrecy

1. Any commercially sensitive information received, exchanged or transmitted pursuant to Article 14(4) to (8), and Article 18 excluding the results of the assessments referred to in Article 14(3) and (5) shall be confidential and subject to the conditions of professional secrecy laid down in this Article.
2. The obligation of professional secrecy shall apply to the following persons who receive confidential information in accordance with this Regulation:
 - (a) persons who work or who have worked for the **Energy Community Secretariat**;
 - (b) auditors and experts instructed by the **Energy Community Secretariat**;
 - (c) persons who work or who have worked for the competent authorities and the national regulatory authorities or for other relevant authorities;
 - (d) auditors and experts instructed by competent authorities and national regulatory authorities or by other relevant authorities.
3. Without prejudice to cases covered by criminal law, the other provisions of this Regulation or other relevant **Energy Community or national** law, confidential information received by the persons referred to in paragraph 2 in the course of their duties may not be divulged to any other person or authority, except in summary or aggregate form such that an individual market participant or market place cannot be identified.
4. Without prejudice to cases covered by criminal law, the **Energy Community Secretariat**, the competent authorities and the national regulatory authorities, bodies or persons which receive confidential information pursuant to this Regulation may use confidential information only in the performance of their duties and for the exercise of their functions. Other authorities, bodies or persons may use that information for the purpose for which it was provided to them or in the context of administrative or judicial proceedings specifically related to the exercise of their functions.

Article 16

<...>³² not applicable as adopted for the EnC, thus amendments not relevant

<...>

Article 17

Monitoring by the **Energy Community Secretariat**³³

The **Energy Community Secretariat** shall carry out continuous monitoring of security of gas supply measures **in the Contracting Parties** and report regularly to the **Security of Supply Coordination Group, the Permanent High Level Group and the Ministerial Council**.

<...>

Article 17a

Reporting

1. By **1 June** 2023 and annually thereafter, the **Energy Community Secretariat** shall submit reports to the **Ministerial Council**, containing:

- (a) an overview of the measures taken by the **Contracting Parties** to fulfil the storage obligations;
- (b) an overview of the time needed for the certification procedure, set out in Article 3a of Regulation (EC) No 715/2009 **as adapted and adopted by the Ministerial Council Decision 2011/02/MC-EnC**;
- (c) an overview of the measures requested by the **Energy Community Secretariat** in order to ensure compliance with the filling trajectories and the filling targets;
- (d) an analysis of the potential effects of this Regulation on gas prices and potential gas savings in relation to Article 6b(4).

³² Not applicable according to Article 4(16) of Ministerial Council Decision 2021/15/MC-EnC

³³ The text displayed here corresponds to Article 4(14) of Ministerial Council Decision 2021/15/MC-EnC

Article 18

Notifications

The risk assessment, the preventive action plans, the emergency plans and all other documents shall be notified to the **Energy Community Secretariat** electronically.

All correspondence in connection with a notification shall be transmitted electronically.

Article 18a

<....>

Article 19

<....>³⁴

Article 20

Derogation³⁵

1. This Regulation shall not apply to **Kosovo**³⁶ and **Montenegro** for as long as no gas is supplied on their respective territories. For **Kosovo**^{*} and **Montenegro** the obligations laid down in, and the choices those **Contracting Parties** are entitled to make pursuant to, the following provisions shall be fulfilled and made within the specified time calculated from the date when gas is first supplied on their respective territories:

- (a) for point 5 of Article 2, Article 3(2), Article 7(5) and point (a) of Article 14(6): 12 months;
- (b) for Article 6(1): 18 months;
- (c) for Article 8(7): 24 months;
- (d) for Article 5(4): 36 months;
- (e) for Article 5(1): 48 months.

³⁴ Not applicable according to Article 4(16) of Ministerial Council Decision 2021/15/MC-EnC

³⁵ The text displayed here corresponds to Article 4(15) of Ministerial Council Decision 2021/15/MC-EnC

³⁶ Through this Regulation, this designation is without prejudice to position on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo

In order to fulfil the obligation contained in Article 5(1), **Kosovo* and Montenegro** may apply the provisions contained in Article 5(2), including by using non-market-based demand-side measures.

2. <...>
3. <...>.
4. Articles 6a to 6d shall not apply to **Montenegro, Kosovo*** or **Georgia**³⁷ for as long as they are not directly interconnected to the gas interconnected system of any other **Contracting Parties**.

Article 21

Repeal³⁸

Decision No 2007/06/MC-EnC of 18 December 2007 on the implementation of Directive 2005/89/EC, Directive 2004/67/EC and Regulation (EC) No 1775/2005 is repealed.

Article 22

Entry into force³⁹

This Regulation shall enter into force **on the day of its adoption**.

It is addressed to the Contracting Parties and the institutions of the Energy Community.

<...>

Article 2, points (27) to (31), Articles 6a to 6d, Article 17a, Article 20(4), and Annex Ia shall apply until 31 December 2025⁴⁰.

Article 23

Review⁴¹

The functioning of the rules and procedures established by this Regulation shall be reviewed by the Energy Community Secretariat by 2024. Taking into account the review, the European Commission may propose amendments including steps further

³⁷ The text displayed here corresponds to Article 3(5) of Ministerial Council Decision 2022/01/MC-EnC

³⁸ The text displayed here corresponds to Article 5 of Ministerial Council Decision 2021/15/MC-EnC

³⁹ The text displayed here corresponds to Article 6 of Ministerial Council Decision 2021/15/MC-EnC

⁴⁰ The text displayed here corresponds to Article 3(6) of Ministerial Council Decision 2022/01/MC-EnC

⁴¹ The text displayed here corresponds to Article 4(17) of Ministerial Council Decision 2021/15/MC-EnC

integrating the Contracting Parties into the security of supply and solidarity mechanisms applicable within the European Union.

ANNEX I

<...>⁴²

ANNEX Ia*:

Filling trajectory with Intermediate targets and filling target for 2022 for Contracting Parties with underground storage facilities

Contracting Party	September 1 st Intermediate target	October 1 st Intermediate target	November 1 st filling target
RS	60%	70%	80%
UA	60%	70%	80%

For **Contracting Parties** falling under Article 6a (2b), the pro rata intermediate target shall be calculated by multiplying the value indicated in the table by the limit of 35% and by dividing the result by 80%.⁴³

* This Annex is subject to the pro rata obligations of each **Contracting Party** under this Regulation, in particular Articles 6a, 6b and 6c.

⁴² Not applicable according to Article 4(23) of Ministerial Council Decision 2021/15/MC-EnC

⁴³ The text displayed here corresponds to Article 3(7) of Ministerial Council Decision 2022/01/MC-EnC

ANNEX II

Calculation of the N – 1 formula

1. Definition of the N – 1 formula

The N – 1 formula describes the ability of the technical capacity of the gas infrastructure to satisfy total gas demand in the calculated area in the event of disruption of the single largest gas infrastructure during a day of exceptionally high gas demand occurring with a statistical probability of once in 20 years.

Gas infrastructure shall cover the gas transmission network including interconnections, as well as production, LNG and storage facilities connected to the calculated area.

The technical capacity of all remaining available gas infrastructure in the event of disruption of the single largest gas infrastructure shall be at least equal to the sum of the total daily gas demand of the calculated area during a day of exceptionally high gas demand occurring with a statistical probability of once in 20 years.

The results of the N – 1 formula, as calculated below, shall be at least equal to 100 %.

2. Calculation method of the N – 1 formula

$$N - 1 [\%] = \frac{EP_m + P_m + S_m + LNG_m - I_m}{D_{max}} \times 100, \quad N - 1 \geq 100\%$$

The parameters used for the calculation shall be clearly described and justified. For the calculation of the EP_m , a detailed list of the entry points and their individual capacity shall be provided.

3. Definitions of the parameters of the N – 1 formula

‘Calculated area’ means a geographical area for which the N – 1 formula is calculated, as determined by the competent authority.

Demand-side definition

‘ D_{max} ’ means the total daily gas demand (in mcm/d) of the calculated area during a day of exceptionally high gas demand occurring with a statistical probability of once in 20 years.

Supply-side definitions

‘ EP_m ’: technical capacity of entry points (in mcm/d), other than production, LNG and storage facilities covered by P_m , LNG_m and S_m , means the sum of the technical capacity of all border entry points capable of supplying gas to the calculated area.

'P_m': maximal technical production capability (in mcm/d) means the sum of the maximal technical daily production capability of all gas production facilities which can be delivered to the entry points in the calculated area.

'S_m': maximal technical storage deliverability (in mcm/d) means the sum of the maximal technical daily withdrawal capacity of all storage facilities which can be delivered to the entry points of the calculated area, taking into account their respective physical characteristics.

'LNG_m': maximal technical LNG facility capacity (in mcm/d) means the sum of the maximal technical daily send-out capacities at all LNG facilities in the calculated area, taking into account critical elements like offloading, ancillary services, temporary storage and re-gasification of LNG as well as technical send-out capacity to the system.

'I_m' means the technical capacity of the single largest gas infrastructure (in mcm/d) with the highest capacity to supply the calculated area. When several gas infrastructures are connected to a common upstream or downstream gas infrastructure and cannot be separately operated, they shall be considered as one single gas infrastructure.

4. Calculation of the N – 1 formula using demand-side measures

$$N - 1 [\%] = \frac{EPm + Pm + Sm + LNGm - Im}{Dmax - Def} \times 100, \quad N - 1 \geq 100\%$$

Demand-side definition

'Def' means the part (in mcm/d) of D_{max} that in the case of a disruption of gas supply can be sufficiently and timely covered with market-based demand-side measures in accordance with point (c) of Article 9(1) and Article 5(2).

5.


⁴⁴ Not applicable according to Article 4(18) of Ministerial Council Decision 2021/15/MC-EnC

ANNEX III

Permanent bi-directional capacity⁴⁵

1. For the execution of the provisions set out in this Annex the national regulatory authority may act as the competent authority if so decided by the **Contracting Party**. **Interconnectors in operation on the date when this Regulation has entered into force between Serbia and Bosnia and Herzegovina are exempted from obligations to enable permanent physical capacity to transport gas in both directions for permanent bi-directional capacity concerning the reverse direction ('physical reverse flow capacity') according to this Regulation.**

2. To enable or enhance bi-directional capacity on an interconnection or to obtain or prolong an exemption from that obligation, transmission system operators on both sides of the interconnection shall submit to their competent authorities ('competent authorities concerned') and to their regulatory authorities ('regulatory authorities concerned') after consulting with all transmission system operators potentially concerned:

(a) a proposal to enable permanent physical capacity to transport gas in both directions for permanent bi-directional capacity concerning the reverse direction ('physical reverse flow capacity'); or

(b) a request for an exemption from the obligation to enable bi-directional capacity.

The transmission system operators shall endeavour to submit a joint proposal or request for exemption. In the case of a proposal to enable bi-directional capacity, the transmission system operators may make a substantiated proposal for a cross-border cost allocation. Such submission shall take place no later than **1 February 2024** for all interconnections that existed on **25 November 2021**, and after completing the feasibility study phase but before the start of detailed technical design phase for new interconnections.

3. Upon receipt of the proposal or the exemption request the competent authorities concerned shall without delay consult the competent authorities and, where they are not the competent authorities, the national regulatory authorities, of the **Contracting Party** that could, in accordance with the risk assessment, benefit from the reverse flow capacity, the **Energy Community Regulatory Board and the Energy Community Secretariat** on the proposal or the exemption request. The authorities consulted may issue an opinion within four months of receipt of the consultation request.

4. The regulatory authorities concerned shall within six months upon receipt of the joint proposal, pursuant to Article 5(6) and (7), after consulting the project promoters concerned, take coordinated decisions on the cross-border allocation of investment costs to be borne by

⁴⁵ The text displayed here corresponds to Article 4(19) of Ministerial Council Decision 2021/15/MC-EnC

each transmission system operator of the project. Where the regulatory authorities concerned have not reached an agreement within that deadline, they shall inform the competent authorities concerned without delay.

5. The competent authorities concerned shall on the basis of the risk assessment, the information listed in Article 5(5) of this Regulation, the opinions received following the consultation in accordance with point 3 of this Annex and taking into account the security of gas supply and the contribution to the **single** gas market take a coordinated decision. That coordinated decision shall be taken within two months. The period of two months shall start to run after the four-month period allowed for the opinions referred to under point 3 of this Annex, unless all opinions have been received before, or after the six-month period referred to in point 4 of this Annex for regulatory authorities concerned to adopt a coordinated decision. The coordinated decision shall:

- (a) accept the proposal for bi-directional capacity. Such decision shall contain a cost benefit analysis, a timeline for implementation and the arrangements for its subsequent use and be accompanied by the coordinated decision on the cross-border cost allocation referred to in point 4 and prepared by the regulatory authorities concerned;
- (b) grant **an exemption** or prolong a temporary exemption for a maximum period of four years, if the cost-benefit analysis included in the decision shows that the reverse flow capacity would not enhance the security of gas supply of any relevant **Contracting Party** or if the investment costs would significantly outweigh the prospective benefits for the security of gas supply; or
- (c) require the transmission system operators to amend and resubmit their proposal or exemption request within a maximum period of four months.

6. The competent authorities concerned shall submit the coordinated decision without delay to the competent authorities and national regulatory authorities who have submitted an opinion in accordance with point 3, the regulatory authorities concerned, the **Energy Community Regulatory Board and the Energy Community Secretariat** including the opinions received following the consultation in accordance with point 3.

7. Within two months of receipt of the coordinated decision, the competent authorities referred to in point 6 may present their objections to the coordinated decision and submit them to the competent authorities concerned that adopted it, the **Energy Community Regulatory Board and the Energy Community Secretariat**. The objections shall be limited to facts and assessment, in particular cross-border cost allocation that was not subject of consultation in accordance with point 3.

8. Within three months of receipt of the coordinated decision in accordance with point 6, the **Energy Community Regulatory Board** shall issue an opinion on the elements of the coordinated decision taking into account any possible objection and submit the opinion to all

competent authorities concerned and the competent authorities referred to in point 6 and to the **Energy Community Secretariat**.

9. Within four months of receipt of the opinion issued by the **Energy Community Regulatory Board** pursuant to point 8 the **Energy Community Secretariat** may adopt an **opinion** requesting modifications of the coordinated decision. Any such **opinion of the Energy Community Secretariat** shall be taken on the basis of: the criteria set out in point 5, the reasons for the decision of the authorities concerned and the opinion of the **Energy Community Regulatory Board**. The competent authorities concerned shall **take utmost account of the opinion of the Energy Community Secretariat** by amending their decision within a period of four weeks.

10. If the competent authorities concerned were not able to adopt a coordinated decision within the deadline set out in point 5 or if the regulatory authorities concerned could not reach an agreement on the cost allocation within the deadline set out in point 4, the competent authorities concerned shall inform the **Energy Community Regulatory Board and the Energy Community Secretariat** at the latest on the day of the expiry of the deadline. Within four months of receipt of that information, **the Energy Community Secretariat** after possible consultation with the **Energy Community Regulatory Board**, shall **issue an opinion** covering all elements of a coordinated decision listed in point 5 with the exception of a cross-border cost allocation and submit that **opinion** to the competent authorities concerned **and** the **Energy Community Regulatory Board**.

11. If the **Energy Community Secretariat's opinion** pursuant to point 10 of this Annex, requires bi-directional capacity, the **Energy Community Regulatory Board** shall adopt a decision covering the cross-border cost allocation in line with Article 5(7) of this Regulation within three months of receipt of the **Energy Community Secretariat's opinion**. Before taking such a decision, the **Energy Community Regulatory Board** shall consult the regulatory authorities concerned and the transmission system operators. The three-month period may be extended by an additional period of two months where the **Energy Community Regulatory Board** has to request additional information. The additional period shall begin on the day following receipt of the complete information.

12. The Energy Community Regulatory Board and the Energy Community Secretariat shall consult each other before taking decisions or issuing opinions in accordance with the previous paragraphs. These authorities, as well as the competent authorities, the national regulatory authorities and the transmission system operators shall preserve the confidentiality of commercially sensitive information.

13. <...>⁴⁶

⁴⁶ Not applicable according to Article 4(19)h of Ministerial Council Decision 2021/15/MC-EnC

ANNEX IV



⁴⁷ Not applicable according to Article 4(23) of Ministerial Council Decision 2021/15/MC-EnC

ANNEX V

Template for the national risk assessment

General information

Name of the competent authority responsible for the preparation of the present risk assessment⁴⁸.

1. Description of the system
 - 1.1. <...>⁴⁹
 - 1.2. Provide a brief description of the gas system of the **Contracting Party** covering:
 - (a) the main gas consumption figures: annual final gas consumption (bcm) and breakdown by type of customers, peak demand (mcm/d);
 - (b) a description of the functioning of the gas system at national level, including infrastructure (to the extent not covered by point 1.1(b)). If applicable, include L-gas system;
 - (c) the identification of the key infrastructure relevant for the security of gas supply;
 - (d) a breakdown, to the extent possible, at national level of gas import sources per country of origin;
 - (e) a description of the role of storage and include:
 - (i) the storage capacity (total and working) compared to heating season demand;
 - (ii) the maximal daily withdrawal capacity at different filling levels (ideally with full storages and end-of-season levels);
 - (f) a description of the role of domestic production and include:
 - (i) the volume of production with regard to the annual final gas consumption;
 - (ii) the maximal daily production capacity;
 - (g) a description of the role of gas in the electricity production (e.g. importance, role as a back-up for renewables), including gas-fired generating capacity (total (MWe) and as percentage of the total generating capacity) and cogeneration (total (MWe) and as percentage of the total generating capacity).
2. Infrastructure standard (Article 5)

Describe how the infrastructure standard is complied with, including the main values used for the $N - 1$ formula and alternative options for its compliance (with directly connected

⁴⁸ Where this task has been delegated by the competent authority, indicate the name of the body/(ies) responsible for the presentation of the present risk assessment on its behalf

⁴⁹ Not applicable according to Article 4(20)a of Ministerial Council Decision 2021/15/MC-EnC

Contracting Parties, demand-side measures) and the existing bidirectional capacities, as follows:

(a) N – 1 formula

- (i) the identification of the single largest gas infrastructure;
- (ii) the calculation of the N – 1 formula at national level;
- (iii) a description of the values used for all elements in the N – 1 formula, including intermediate values used for their calculation (e.g. for EP_m indicate the capacity of all entry points considered under this parameter);
- (iv) an indication of the methodologies used, if any, for the calculation of parameters in the N – 1 formula (e.g. D_{max}) (use annexes for detailed explanations);
- (v) an explanation of the results of the calculation of the N – 1 formula considering the level of storages at 30 % and 100 % of the maximum working volume;
- (vi) an explanation of the main results of the simulation of the N – 1 formula using a hydraulic model;
- (vii) if so decided by the **Contracting Party**, a calculation of the N – 1 formula using demand-side measures:

- calculation of the N – 1 formula in accordance with point 2 of Annex II,
- description of the values used for all elements in the N – 1 formula, including intermediate figures used for the calculation (if different to the figures described under point 2(a)(iii)),
- indicate the methodologies used, if any, for the calculation of parameters in the N – 1 formula (e.g. D_{max}) (use annexes for detailed explanations),
- explain the market-based demand-side measures adopted/to be adopted to compensate a disruption of gas supply and its expected impact (D_{eff});

(viii) <...>⁵⁰

(b) bi-directional capacity

- (i) indicate the interconnection points equipped with bidirectional capacity and the maximal capacity of bi-directional flows;
- (ii) indicate the arrangements governing the use of the reverse flow capacity (e.g. interruptible capacity);
- (iii) indicate interconnection points where an exemption has been granted in accordance with Article 5(4), the duration of the exemption and the grounds

⁵⁰ Not applicable according to Article 4(20)b of Ministerial Council Decision 2021/15/MC-EnC

on which it was granted.

3. Identification of risks

Describe the risk factors which could have negative impact on the security of gas supply in the **Contracting Party**, their likelihood and consequences.

Non-exhaustive list of types of risk factors that have to be included in the assessment only if applicable according to the competent authority:

(a) political

- gas disruption from third countries because of different reasons,
- political unrest (either in country of origin or in transit country),
- war/civil war (either in country of origin or in transit country),
- terrorism;

(b) technological

- explosion/fires,
- fires (internal to a given facility),
- leakages,
- lack of adequate maintenance,
- equipment malfunction (failure to start, failure during working time, etc.),
- lack of electricity (or other energy source),
- ICT failure (hardware or software failure, internet, SCADA problems, etc.),
- cyber-attack,
- impact due to excavation works (digging, piling), ground works, etc.;

(c) commercial /market / financial

- agreements with third-country suppliers,
- commercial dispute,
- control of infrastructure relevant for the security of gas supply by third-country entities, which may imply, among others, risks of underinvestment, undermining diversification or non-respect of **Energy Community** law,
- price volatility,
- underinvestment,
- sudden, unexpected peak demand,
- other risks which could lead to structural underperformance;

(d) social

- strikes (in different related sectors, such as the gas sector, ports, transport, etc.),

- sabotage,
- vandalism,
- theft;
- (e) natural
 - earthquakes,
 - landslides,
 - floods (heavy rain, river),
 - storms (sea),
 - avalanches,
 - extreme weather conditions,
 - fires (external to the facility, like nearby forests, grassland, etc.).

Analysis

- (a) identify the relevant risk factors for the **Contracting Party**, including their likelihood and impact;
 - (b) describe the criteria used to determine whether a system is exposed to high/unacceptable risks;
 - (c) set a list of relevant risk scenarios in accordance with the risk factors and their likelihood and describe how the selection was made.
4. Risk analysis and assessment

Analyse the set of relevant risk scenarios identified under point 3. In the simulation of risk scenarios include the existing security of gas supply measures, such as the infrastructure standard calculated using the N – 1 formula as set out in point 2 of Annex II, and the gas supply standard. Per risk scenario:

- (a) describe in detail the risk scenario, including all assumptions and, if applicable, the underlying methodologies for their calculation;
 - (b) describe in detail the results of the simulation carried out, including a quantification of the impact (e.g. volumes of unserved gas, the socioeconomic impact, the impact on district heating, the impact on electricity generation).
5. <...>⁵¹

⁵¹ Not applicable according to Article 4(20)c of Ministerial Council Decision 2021/15/MC-EnC

ANNEX VI

Template for preventive action plan⁵²

General information

— <...>

— Name of the competent authority responsible for the preparation of the plan⁵³

1. Description of the system

1.1. <...>

1.2. Provide a brief description of the gas system per **Contracting Party**, covering:
the main gas consumption figures: annual final gas consumption (bcm) and breakdown by type of customers, peak demand (mcm/d);
a description of the functioning of the gas system at national level, including infrastructure (to the extent not covered by point 1.1(b));
the identification of the key infrastructure relevant for the security of supply;
a breakdown, to the extent possible, at national level of gas import sources per country of origin;
a description of the role of storage in the **Contracting Party** and include:

(i) the storage capacity (total and working) compared to heating season demand;

(ii) the maximal daily withdrawal capacity at different filling levels (ideally with full storages and end-of-season levels);

a description of the role of domestic production and include:

(iii) the volume of production with regard to the annual final gas consumption;

(iv) the maximal daily production capacity;

a description of the role of gas in the electricity production (e.g. importance, role as a back-up for renewables), including gas-fired generating capacity (total (MWe) and as percentage of the total generating capacity) and cogeneration (total (MWe) and as percentage of the total generating capacity);

a description of the role of energy efficiency measures and their effect on annual final gas consumption.

2. Summary of the risk assessment

⁵² The text displayed here corresponds to Article 4(21) of Ministerial Council Decision 2021/15/MC-EnC

⁵³ When this task has been delegated by any competent authority, indicate the name of the body/(ies) responsible for the preparation of this plan on its behalf

Describe briefly the results of the <...> national risk assessment carried out in accordance with Article 7, including:

- (a) a list of the scenarios assessed and a brief description of the assumptions applied for each one as well as the risks/shortcomings identified;
- (b) the main conclusions of the risk assessment.

3. Infrastructure standard (Article 5)

Describe how the infrastructure standard is complied with, including the main values used for the N – 1 formula and alternative options for its compliance (with neighbouring **Contracting Parties**, demand-side measures) and the existing bidirectional capacities, as follows:

3.1. <...>

3.2. National level

(a) N – 1 formula

- (i) the identification of the single largest gas infrastructure;
- (ii) the calculation of the N – 1 formula at national level;
- (iii) a description of the values used for all elements in the N – 1 formula, including intermediate values used for the calculation (e.g. for EP_m indicate the capacity of all entry points considered under this parameter);
- (iv) an indication of the methodologies used, if any, for the calculation of parameters in the N – 1 formula (e.g. D_{max}) (use annexes for detailed explanations);
- (v) if so decided by the **Contracting Party**, calculation of the N – 1 formula using demand-side measures:
 - the calculation of the N – 1 formula in accordance with point 2 of Annex II,
 - a description of the values used for all elements in the N – 1 formula, including intermediate figures used for the calculation (if different to the figures described under point 3(a)(iii) of this Annex),
 - an indication of the methodologies used, if any, for the calculation of parameters in the N – 1 formula (e.g. D_{max}) (use annexes for detailed explanations),
 - an explanation of the market-based demand-side measures adopted/to be adopted to compensate a disruption of gas supply and its expected impact (D_{eff});
- (vi) <...>

(b) bi-directional capacity

- (i) indicate the interconnection points equipped with bidirectional capacity and the maximal capacity of bi-directional flows;

- (ii) indicate the arrangements governing the use of the reverse flow capacity (e.g. interruptible capacity);
- (iii) indicate interconnection points where an exemption has been granted in accordance with Article 5(4), the duration of the exemption and the grounds on which it was granted.

4. Compliance with the supply standard (Article 6)

Describe the measures adopted in order to comply with the supply standard as well as with any increased supply standard or additional obligation imposed for reasons of security of gas supply:

- (a) definition of protected customers applied, including categories of customers covered and their annual gas consumption (per category, net value and percentage of the national annual final gas consumption);
- (b) gas volumes needed to comply with the supply standard in accordance with the scenarios described in the first subparagraph of Article 6(1);
- (c) capacity needed to comply with the supply standard in accordance with the scenarios described in the first sub- paragraph of Article 6(1);
- (d) measure(s) in place to comply with the supply standard:
 - (i) a description of the measure(s);
 - (ii) addressees;
 - (iii) where it exists, describe any *ex ante* monitoring system for the compliance with the supply standard;
 - (iv) sanctions regime, if applicable;
 - (v) describe, per measure:
 - the economic impact, effectiveness and efficiency of the measure,
 - the impact of the measure on the environment,
 - impact of the measures on consumer,
 - (vi) where non-market-based measures are applied (per measure):
 - justify why the measure is necessary (i.e. why security of supply cannot be achieved via market-based measures alone),
 - justify why the measure is proportionate (i.e. why the non-market-based measure is the least restrictive means to achieve the intended effect),
 - provide an analysis of the impact of such measure:
 - (1) on other **Contracting Parties** ' security of supply;
 - (2) on the national market;
 - (3) on the **single** market;

- (vii) where measures introduced on or after **30th November 2021** please provide a short summary of the impact assessment or a link to the public impact assessment of the measure(s) carried out in accordance with Article 9(4);
- (e) if applicable, describe any increased supply standard or additional obligation imposed for reasons of security of gas supply:
 - (i) a description of the measure(s);
 - (ii) the mechanism to reduce it to usual values in a spirit of solidarity <...>;
 - (iii) if applicable, describe any new increased supply standard or additional obligation imposed for reasons of security of gas supply adopted on or after **30th November 2021**;
 - (iv) addressees;
 - (v) affected gas volumes and capacities;
 - (vi) indicate how that measure complies with the conditions laid down in Article 6(2).

5. Preventive measures

Describe the preventive measures in place or to be adopted:

- (a) describe each of the preventive measures adopted per identified risk in accordance with the risk assessment, including a description of:
 - (i) their national or regional dimension;
 - (ii) their economic impact, effectiveness and efficiency;
 - (iii) their impact on customers. Where appropriate, include:
 - measures to enhance interconnections between neighbouring **Contracting Parties**,
 - measures to diversify gas routes and sources of supply,
 - measures to protect key infrastructure relevant for the security of supply in relation to control by third- country entities (including, where relevant, general or sector-specific investment screening laws, special rights for certain shareholders, etc.);
- (b) <...>
- (c) where non-market-based measures are applied (per measure):
 - (i) justify why the measure is necessary (i.e. why the security of supply cannot be achieved via market-based measures alone);
 - (ii) justify why the measure is proportionate (i.e. why the non-market-based measure is the least restrictive means to achieve the intended effect);
 - (iii) provide an analysis of the impact of such measure:
 - justify why the measure is necessary (i.e. why the security of supply cannot be

- achieved via market- based measures alone),
- justify why the measure is proportionate (i.e. why the non-market-based measure is the least restrictive means to achieve the intended effect),
- provide an analysis of the impact of such measure:
 - (1) on other **Contracting Parties**' security of supply;
 - (2) on the national market;
 - (3) on the **single** market;
 - (4) explain the extent to which efficiency measures, including on the demand side, have been considered to increase the security of supply;
 - (5) explain the extent to which renewable energy sources have been considered to increase the security of supply.
- 6. Other measures and obligations (e.g. safety operation of the system)

Describe other measures and obligations that have been imposed on natural gas undertakings and other relevant bodies likely to have an impact on the security of gas supply, such as obligations for the safe operation of the system, including who would be affected by that obligation as well as the gas volumes covered. Explain precisely when and how those measures would apply.

7. Infrastructure projects

- (a) describe future infrastructure projects, including Projects of **Energy Community Interests**, including an estimated timing for their deployment, capacities and estimated impact on the security of gas supply;

(b) <...>

8. Public service obligations related to the security of supply

Indicate the existing public service obligations related to the security of supply and briefly describe them (use annexes for more detailed information). Explain clearly who has to comply with such obligations and how. If applicable, describe how and when those public service obligations would be triggered.

9. Stakeholder consultations

In accordance with Article 8(2) of this Regulation, describe the mechanism used for and the results of the consultations carried out, for the development of the plan as well as the emergency plan, with:

- (a) gas undertakings;
- (b) relevant organisations representing the interests of households;
- (c) relevant organisations representing the interests of industrial gas customers,

including electricity producers;
(d) national regulatory authority.

10. <...>

11.1. <...>

11.2. Mechanisms developed for cooperation

Describe the mechanisms used for the cooperation among the **Contracting Parties <...>**, including for developing cross-border measures in the preventive action plan and the emergency plan.

<...>

11.3. <...>

—

ANNEX VII

Template for emergency plan

General information

Name of the competent authority responsible for the preparation of the present plan⁵⁴

1. Definition of crisis levels

- (a) indicate the body responsible for the declaration of each crisis level and the procedures to follow in each case for such declarations;
- (b) where they exist, include here indicators or parameters used to consider whether an event may result in a significant deterioration of the supply situation and to decide upon the declaration of a certain crisis level.

2. Measures to be adopted per crisis level

2.1 Early Warning

Describe the measures to be applied at this stage, indicating, per measure:

a brief description of the measure and main actors involved;

describe the procedure to follow, if applicable;

indicate the expected contribution of the measure to cope with the impact of any event or prepare ahead of its appearance;

describe the flows of information among the actors involved.

2.2 Alert Level

(a) describe the measures to be applied at this stage, indicating, per measure:

- (i) a brief description of the measure and main actors involved;
- (ii) describe the procedure to follow, if applicable;
- (iii) indicate the expected contribution of the measure to cope with the situation at alert level;
- (iv) describe the flows of information among the actors involved;

(b) describe the reporting obligations imposed on natural gas undertakings at alert level.

2.3 Emergency Level

(a) establish a list of predefined actions on the supply and demand side to make gas available in the event of an emergency, including commercial agreements between the parties involved in such actions and the compensation mechanisms

⁵⁴ Where this task has been delegated by any competent authority, please indicate the name of the body/(ies) responsible for the preparation of this plan on its behalf

for natural gas undertakings where appropriate;

(b) describe the market-based measures to be applied at this stage, indicating, per measure:

(i) a brief description of the measure and main actors involved;

(ii) describe the flows of information among the actors involved;

(c) describe the non-market-based measures planned or to be implemented for the emergency level, indicating, per measure:

(i) a brief description of the measure and main actors involved;

(ii) provide an assessment of the necessity of such measure in order to cope with a crisis, including the degree of its use;

(iii) describe in detail the procedure to implement the measure (e.g. what would trigger the introduction of this measure, who would take the decision);

(iv) indicate the expected contribution of the measure to mitigate the situation at emergency level as a complement to market-based measures;

(v) assess other effects of the measure;

(vi) justify the compliance of the measure with the conditions laid down in Article 11(6);

(vii) describe the flows of information among the actors involved;

(d) describe reporting obligations imposed on natural gas undertakings.

3. Specific measures for the electricity and district heating

(a) district heating

(i) briefly indicate the likely impact of a disruption of gas supply in the district heating sector;

(ii) indicate measures and actions to be taken to mitigate the potential impact of a disruption of gas supply on district heating. Alternatively, indicate why the adoption of specific measures is not appropriate;

(b) supply of electricity generated from gas

(i) briefly indicate the likely impact of a disruption of gas supply in the electricity sector;

(ii) indicate measures and actions to be taken to mitigate the potential impact of a disruption of gas supply on the electricity sector. Alternatively, indicate why the adoption of specific measures is not appropriate;

(iii) indicate the mechanisms/existing provisions to ensure appropriate coordination, including exchange of information, between main actors in the gas and electricity sectors, in particular transmission system operators at different crisis levels.

4. Crisis manager or team

Indicate who the crisis manager is and define its role.

5. Roles and responsibilities of different actors
- (a) per crisis level, define the roles and responsibilities, including interactions with the competent authorities and, where appropriate, with the national regulatory authority, of:
 - (i) natural gas undertakings;
 - (ii) industrial customers;
 - (iii) relevant electricity producers;
 - (b) per crisis level, define the role and responsibilities of the competent authorities and the bodies to which tasks have been delegated.

6. Measures regarding undue consumption by customers who are not protected customers

Describe measures in place to prevent to the extent possible and without endangering the safe and reliable operation of the gas system or creating unsafe situations, the consumption by customers who are not protected customers of gas supply intended for protected customers during an emergency. Indicate the nature of the measure (administrative, technical, etc.), main actors and the procedures to follow.

7. Emergency tests
- (a) indicate the calendar for the real time response simulations of emergency situations;
 - (b) indicate actors involved, procedures and concrete high and medium impact scenarios simulated.

For the updates of the emergency plan: describe briefly the tests carried out since the last emergency plan was presented and the main results. Indicate which measures have been adopted as a result of those tests.

8. <...>⁵⁵ _____

⁵⁵ Not applicable according to Article 4(22) of Ministerial Council Decision 2021/15/MC-EnC

ANNEX VIII

List of non-market-based security of gas supply measures

In developing the preventive action plan and the emergency plan the competent authority shall consider the contribution of the following indicative and non-exhaustive list of measures only in the event of an emergency:

(a) supply-side measures:

- use of strategic gas storage,
- enforced use of stocks of alternative fuels (e.g. in accordance with Council Directive 2009/119/EC⁵⁶),
- enforced use of electricity generated from sources other than gas,
- enforced increase of gas production levels,
- enforced storage withdrawal;

(b) demand-side measures:

- various steps of compulsory demand reduction including:
- enforced fuel switching,
- enforced utilisation of interruptible contracts, where not fully utilised as part of market-based measures,
- enforced firm load shedding.

⁵⁶ Council Directive 2009/119/EC of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products (OJ L 265, 9.10.2009, p. 9) **as adopted by Ministerial Council Decisions 2008/03/EnC-MC and 2012/03/EnC-MC, and in accordance with Recommendation 2018/02/EnC-MC**