

THE NEW ENERGY SECURITY PACKAGE A STEP FORWARD TO EUROPEAN NATURAL GAS SECURITY OF SUPPLY

On 16 February 2016 the European Commission ('EC') officially presented the new Energy Security Package. The set promotes the EC's increased role in the energy sector and aims at preventing and mitigating natural gas supply interruptions and increasing the liquidity and interconnection of the European internal energy market. In its current version the package has as a main focus the European natural gas market as it consists of (i) Security of Gas Supply Regulation; (ii) a new and revised Inter Governmental Agreements Decision and (iii) Liquefied natural gas ('LNG') and gas storage strategy.

The secure natural gas supply guarantee and climate change mitigation are the main challenges and the new Package envisages measures to increase energy production within the European Union, (including from renewables), the diversification of the energy sources, the routes and suppliers and completing the integration of the European internal energy market.

The Security of Gas Supply Regulation - by this regulation the EC's introduces a new approach determining the manner of the measures implemented. For the first time, a solidarity principle would be applicable in severe crisis cases in a member state, where the neighboring countries will ensure natural gas supplies to households and essential social services entities until the member state in question overcome the crisis. In addition, the Regulation requires a better coordination between member states and cooperation with Energy Community countries, not party of the European Union. Last, but not least - the natural gas companies will have to notify member states and the EC about some security of supply relevant contracts upon their conclusion or modification.

The Revised IGA Decision - One of the main proposals, set out in the new and revised IGA Decision empowers the Commission to review *ex-ante* intergovernmental agreements to be signed with non-EU countries. The main role of EC is to ensure the future IGAs' compliance with EU law, with member states' governments required to take into account the EC's opinion. In addition, the IGA Decision extends its scope to non-legally binding instruments for assessment. In case a member state decides to go ahead with such agreement after the EC has identified non-compliance with EU legislation, the respective member state might become subject to infringement proceedings.

The existing IGAs signed already by a number of European member states (e.g. Bulgaria along with Italy, Austria signed in 2006 bilateral intergovernmental agreements for the construction of the South Stream natural gas pipeline) are not addressed by the new rules put forth by the EC.

The LNG and natural gas storage strategy - the Strategy focuses on setting clear rules for developing the LNG infrastructure as an alternative to the pipeline supplies, which are the traditional paths for natural gas deliveries in Europe. EC considers that LNG production is expected

to grow for the coming years (notably in the USA), thus economic incentives and cooperation with international partners for construction of new liquefaction facilities would be the vehicle to counteract the recent regional disparities in access to LNG alternative sources. In this respect, LNG infrastructure and so called regional gas hubs development could play a significant role in the future of the European internal energy market and especially to many countries from south-east of Europe, including Bulgaria which are still heavily dependent on a single gas source and/or supply route) .

In this strategy, the Commission is setting new operational rules for improving and optimization of cross-border use of natural gas storage facilities. These measures also could play a crucial role for member states like Bulgaria which have currently only small storage capacities insufficient to support its market demands in crisis situations. The securitization of member states sufficient natural gas pipeline interconnection and the development of further interconnection infrastructure are also set as priority in that respect. The Package also proposes a new, more credible assessment process related to the EU progress of interconnector projects, after it was established that the implementation of a project of such a kind continues for approximately 11 years on average.

Next Steps - The Energy Security Package will now be forwarded to the European Parliament and European Council for consideration. New rules are expected to come into force after the package is approved by all concerned EU institutions. When will this happen is not yet defined - the Package sets no strict timetable for its implementation.

About WOLF THEISS

Wolf Theiss is one of the leading law firms in Central, Eastern and South-Eastern Europe. We have established our reputation over a combination of unsurpassed local knowledge and strong international capabilities. We opened the first Wolf Theiss office in Vienna over 50 years ago, and today our team is comprised of over 300 associates with different practice areas, working in offices spread in 13 countries in Central and Eastern Europe. For more information about our service, please contact:



Radoslav Mikov
Contract Partner
radoslav.mikov@wolftheiss.com
T: +359 2 86 13 700



Katerina Novakova
Senior Associate
katerina.novakova@wolftheiss.com
T: +359 2 86 13 700

This memorandum has been prepared solely for the purpose of general information and is not a substitute for legal advice.

Therefore, WOLF THEISS accepts no responsibility if – in reliance on the information contained in this memorandum – you act, or fail to act, in any particular way.

If you would like to know more about the topics covered in this memorandum or our services in general, please get in touch with your usual WOLF THEISS contact or with:

Wolf Theiss
Schubertring 6
AT – 1010 Vienna

www.wolftheiss.com