

LAW

concerning measures to safeguard security of natural gas supply

The Romanian Parliament adopts the following law.

CHAPTER I

General dispositions

Art. 1. – The objective of this law is to ensure an adequate security level for the natural gas supply through transparent, non-discriminatory policies compatible with the requirements of a competitive natural gas market.

Art. 2. – This law establishes the role and responsibilities of the authorities and market operators on the internal natural gas market, as well as implements specific measures necessary to ensure an adequate security level for the natural gas supply.

CHAPTER II

Definitions

Art. 3. - For the purpose of this law, the following terms and expressions shall be defined as follows:

a) *security of natural gas supply* – the ensemble of special measures concerning natural gas supply taken by the market authorities and operators in order to satisfy the natural gas demand, as well as to diversify the sources and to ensure deliveries to customers at proper functioning parameters and technical safety;

b) *long-term gas supply contract* - a gas supply contract signed for a period of minimum 10 years;

c) *emergency situations* – unpredictable situations which may lead, at a national level, to disruptions between demand and supply on the internal market, determined by at least one of the following conditions:

1. major supply decrease by more than 20 % of the imported natural gas quantities;
2. major supply decrease by more than 20 % of the natural gas quantities from the domestic production caused by accidents;
3. extremely cold temperatures in the entire country or in major areas of the country, during long periods, which lead to an exceptionally high natural gas demand.

d) *exceptionally high natural gas demand* – demand which exceeds, during the cold season, i.e. running from October through March, by 20% the medium level registered in cold climates, statistically determined every 20 years, whose direct consequence the disruption of the National natural gas transport system, hereafter named *NTS*;

e) *The National Surveillance Office for Natural Gas Transport* – the surveillance office of the operator of the National natural gas transport system.

CHAPTER III

The responsibilities of the central market authorities

Art. 4. – (1) Within 30 days of the entry into force of this law, the Coordinating Commission is established, by a decision of the prime minister, having the role of drawing up the Action Plan for Emergency Situations and of approving and monitoring the necessary measures for ensuring security of natural gas supply, an interministerial commission, having no legal personality, on a permanent basis.

(2) The Coordinating Commission is composed of one representative, at the level of secretary of state, of the Minister of Economy and Finance and one of the Minister of Internal Affairs and Administrative Reform, the president of the Romanian Energy Regulatory Authority, the president of the National Agency for Mineral Resources, the general director of the NTS operator, the general director of the National Surveillance Office for Natural Gas Transport, as well as one representative of the operators from the natural gas sector and of the consumers representative associations. The nominal component of the commission is approved by a decision of the prime minister.

(3) In emergency situations, the NTS operator notifies, through the National Surveillance Office for Natural Gas Transport, the Coordinating Commission, which considers it is convened in emergency regime.

(4) Within 45 days of its set up, the Coordinating Commission, which is under the subordination of the Romanian Government, draws up and submits to it for approval its own regulation for organization and operation.

Art. 5. – (1) The Coordinating Commission issues the Action Plan for emergency situations, on the basis of proposals submitted by the NTS operator through the National Surveillance Office for Natural Gas Transport, on the basis of information supplied by operators on the internal natural gas market.

(2) The Action Plan for emergency situations is approved by a decision of the Government.

(3) The Coordinating Commission communicates the action plan for emergency situations to the European Commission.

(4) In carrying out its work relating to the implementation of the Action Plan for emergency situations, the Coordinating Commission takes full account of:

- a) the immediate measures taken by the economic operators of the gas sector and sectors connected to it as a response to the major natural gas supply disruption;
- b) other measures approved by the Government relating to the security of gas supply in emergency situations.

(5) The Coordinating Commission notifies the president of the natural gas coordinating group to the European Commission, with the prior approval of the Government, of the cases it considers impossible to manage after the implementation of the Action Plan for emergency situations, because of their magnitude and exceptional character.

(6) In each of the emergency situations referred to in art. 3 c), the Coordinating Commission is convened, as soon as possible, by the prime minister.

Art. 6. – (1) When drawing up the Action Plan for emergency situations the following are taken into account:

- a) existence of working natural gas in storage capacity, as well as the investments necessary to ensure the storage capacity for emergency situations;
- b) withdrawal capacity in gas storage;

c) provision by the NTS operators of pipeline capacity enabling intake and diversion of natural gas supplies to affected areas at risk, as well as the NTS extension in order to supply them;

d) existence of an adequate degree of market liquidity which would permit the acquisition of tradable natural gas quantities;

e) NTS flexibility;

f) development of interruptible contract demand;

g) use, on the basis of the national programme referred to in letter q), of alternative back-up fuels in industrial and power generation plants;

h) existence and development of cross-border natural gas capacities;

i) cooperation between transmission system operators of neighbouring Member States for coordinated dispatching of natural gas;

j) coordinated natural gas dispatching activities between distribution and transmission system operators;

k) domestic production of natural gas;

l) domestic natural gas production flexibility;

m) import flexibility;

n) diversification of sources of gas supply;

o) long-term natural gas supply contracts;

p) the optimization of the investments in infrastructure for the extension of transport capacities, replacing pipes whose life duration ended in order to reduce natural gas losses and ensure the security of the supply of natural gas, as well as for the gas import via regasification terminals and pipelines;

q) the National Program regarding the reduction and/or the interruption of the supply of natural gas, covering the list of interruptible consumers and the order in which the supply of natural gas for these will be limited and/or ceased, the type and quantities of alternative fuels which will be used by consumers during the interruption period;

r) implementation of a management system of the NTS surveillance measure through long-distance data automatization and teletransmission.

(2) The Government of Romania adopts special measures to ensure the adequate capacity of the natural gas supply, storage and transport facilities within their territory and the security of supply.

(3) In conformity with the provisions of art. 5 letter b) of Gas Law 351/2004, as amended and completed, the Ministry of Economy and Finance draws up the National Program mentioned in par. (1) letter q).

Art. 7. – (1) The emergency situations by the operator found out by the NTS operator through the National Surveillance Office for Natural Gas is notified to the Coordinating Commission, which shall check whether one or more conditions provided for in art. 3 letter c) are met.

(2) If the emergency situation notified by the NTS operator through the National Surveillance Office for Natural Gas is considered justified, after the checking provided for in par. (1), the Coordinating Commission confirms, within 24 hours, an emergency situation has been detected.

(3) In emergency situation confirmed according to par. (2), the NTS operator, through the National Surveillance Office for Natural Gas, promptly takes the necessary measures

in order to rapidly solve the crisis situations and balance the NTS, in conformity with the Action Plan for emergency situations.

(4) In case the Coordinating Commission does not confirm the emergency situation, within the term provided for in par. (2), the National Surveillance Office for Natural Gas may take the necessary measures in order to rapidly solve the crisis situations.

(5) Throughout the emergency situations period, the measures taken in conformity with the provisions of the Action Plan for emergency situations are obligatory and prevail over the natural gas sector specific contractual understandings and regulations.

(6) Within 24 hours of the notification sent by the National Surveillance Office for Natural Gas relating to the cessation of the causes which brought about the confirmation of the emergency situation, the Coordinating Commission declares its letup.

(7) The Coordinating Commission publishes in the Official Journal of Romania, Part I, until no later than the 31st of July of each year, a report which shall cover the findings resulted from the supervisions of the aspects related to the security of the natural gas supply, in accordance with the provisions of art. 8 par. (1) letter p) pt. 10 of Law 351/2004, as amended and completed, as well as:

a) the impact, from a point of view of the competition and the public service obligation, of the measures adopted on the basis of art. 8;

b) the existing level of storage and withdrawal capacity;

c) the extent of long-term natural gas acquisition contracts the duration of the long term gas contracts drawn up by the trade companies which carry out their activity on the Romanian territory, in particular the remaining duration, based on data provided by the companies concerned, excluding commercially sensitive information;

d) data related to the level of the natural gas market liquidity;

e) the regulatory framework of the adequate measures for promoting new investments in production, storage and transport of natural gas, including liquefied natural gas (LNG), taking into account also the provisions of art. 69¹-69⁹ of Law 351/2004, as amended and completed.

CHAPTER IV

Security of supply for specific customers

Art. 8. – The public service obligation in the natural gas sector, as defined in Law 351/2004, as amended and completed, is set up as the duty of all license holders in the natural gas sector, as well as of all natural gas manufacturers.

Art. 9. – The set up of the public service obligation aims to satisfy the consumers' general interest, taking into consideration the following:

a) the exploitation of facilities and equipment used in this sector, in conditions in which their integrity and their goods are protected;

b) the exploitation of facilities and equipment used in this sector, in conditions in which the environment is protected and energy efficiency is maintained;

c) ensuring the security and continuity of natural gas supply during the cold season for the consumers referred to in art. 10 par. (2);

d) quality of the service performed.

Art. 10. – (1) The National Surveillance Office for Natural Gas notifies the domestic manufacturers, the operators of natural gas distribution systems, operators of the storage

facilities and licensed suppliers of the emergency situations confirmed according to the provisions of art. 7 par. (2).

(2) In the notified emergency situations, the domestic natural gas suppliers and manufacturers must provide the natural gas quantities necessary to ensure the consumption for:

- a) household consumers;
- b) institutions which provide medical services to education units, as well as to social assistance institutions which provide the care of children, older persons or persons with various degrees of handicaps;
- c) centres supplying the heat agent which cannot use alternative fuel;
- d) public institutions at central and local level, institutions belonging to the culture and religious field, as well as nongovernmental organizations for public use.

(3) The order in which the natural gas supply of the consumers referred to in par. (2) shall be ensured is obligatory.

Art. 11. – The NTS operators, the operators of the natural gas storage and distribution systems, in the situations notified, in accordance with the provisions of art. 10 par. (1), by the National Surveillance Office for Natural Gas, shall make a priority of performing the services related to the supply of natural gas to the consumers referred to in art. 10 par. (2).

Art. 12. – (1) In emergency situations, as well as during the cold season, October through March, the natural gas suppliers shall not be permitted to disrupt natural gas supply due to the following categories of consumers who overdue unpayment of the equivalent value of the invoices:

- a) persons who benefit from social aid, on the basis of the Government Emergency Ordinance 5/2003 on the granting of subsidies for the heating of the dwelling place and granting of facilities to population for the payment of the thermal power supply, approved by Law 245/2003, as further amended and completed;
- b) persons with a handicap;
- c) consumers referred to in art. 10 par. (2) letter b).

(2) Also, in emergency situations, as well as during the cold season, no common maintenance or connection works which require the discontinuation of the natural gas supply for a period of more than 12 hours are to be scheduled and performed.

Art. 13. – (1) During the emergency situations period, operators from the natural gas sector have the following obligations:

- a) in the case of manufacturers who are titulars of oil agreements, they must rally the entire production capacity, within the limit of the maximum extraction capacities approved by the National Agency for Mineral Resources;
- b) in the case of operators of the subterranean storage facilities, they must rally for use the entire natural gas extraction capacity;
- c) in the case of the NTS operator, they must take over the additional natural gas quantities provided by manufacturers and operators of the storage facilities and assure the natural gas transportation services, according to the conditions referred to in the Action Plan for emergency situations;
- d) in the case of distribution operators, they must undertake the measures of limitation / cessation of natural gas, according to the Action Plan for emergency situations and the national program referred to in art. 6 par. (1) letter q), and ensure the

consumers the natural gas supply, according to the legal provisions relating to the public service obligation.

(2) During the emergency situations period, the consumers listed in art. 6 par. (1) letter q) and for whom the measure of natural gas limitation / cessation has been disposed, have the obligation to undertake the measure of maintaining the safety of the equipment and facilities, respectively convert to alternative fuels, if necessary.

Art. 14. (1) By derogation from the provisions of art. 42 of Law 351/2004, as amended and completed, consumers who signed contracts for transportation services which can be discontinued or which, according to the provisions of this law, may be limited / discontinued over the emergency situations period, have the right to resell the natural gas quantities contracted and which cannot be delivered to them as a result of the discontinuation or after a state of national emergency has been declared.

(2) Natural gas may be sold in accordance with par. (1) only by suppliers who have met public service requirements, on the basis of contracts signed with them, with the approval of the Romanian Energy Regulatory Authority. One copy of any such contract is retained by the Romanian Energy Regulatory Authority within 10 days of its signing.

(3) Upon signing the contracts referred to in par. (2), the parties will take into consideration that they should not influence or distort the competition on the natural gas market.

Art. 15. – (1) The NTS operator has the obligation to create interconnections with similar natural gas transport systems in the neighbouring countries, in order to achieve the technical and technological conditions for ensuring the security of the natural gas supply.

(2) Within 90 days of the entry into force of this law, the NTS operator shall prepare the strategy and stages relating to the creation of an NTS interconnection, which he will submit for approval to the Ministry of Economy and Finance, the Romanian Energy Regulatory Authority, the National Agency for Mineral Resources and to the Government of Romania.

(3) If an adequate level of interconnection is available, cooperation measures with another Member State of the European Union may be established including bilateral agreements, to achieve the security of supply standards using natural gas transportation / storage facilities located within that state, to ensure the security of the natural gas supply.

Art. 16. – (1) In order to ensure the natural gas supply of consumers, including the emergency situations, upon completing the cycle of injection, the titulars of natural gas supply licenses have the obligation to store a minimum natural gas supply in the subterranean storage facilities.

(2) The minimum natural gas level is established annually, by a decision of the Romanian Energy Regulatory Authority, considering mainly the existing storage capacities, consumption prognosis, frequency and duration of the low temperature period, ensuring an adequate domestic consumption level.

(3) In emergency situations, the NYS operator has free access to stored quantities and withdrawal capacities, while their allocation to owners is to be carried out according to specific rules, issued by the NTS operator, the subterranean storage facility and the natural gas owners, within 90 days of the date of entry into force of this law and approved by the Romanian Energy Regulatory Authority.

Art. 17. – (1) Natural gas consumers listed in art. 6 par. (1) letter q), for whom converting to alternative fuels is envisaged, are obliged to ensure alternative fuel supplies and ensure the appropriate functioning of the facilities for using them.

CHAPTER V Contraventions

Art. 18. – Contraventions and their sanctions are as follows:

a) fined from 50,000 to 100,000 lei:

1. failing to comply with the provisions of art. 11 by natural gas internal market operators;
2. failing to comply with the provisions of art. 13 par. (1);
3. failing to comply with the provisions of art. 7 par. (3);
4. failing to comply with the provisions of art. 10 par. (3)
5. failing to comply with the provisions of art. 12 par. (1)
6. failing to comply with the provisions of art. 17 par. (2);
7. fined from 10,000 to 50,000 lei, failing to comply with the provisions of art. 15 par. (2), art. 16 par. (1) and art. 17 par. (1).

Art. 19. – (1) Establishing the contraventions and applying the sanctions is done by the Romanian Energy Regulatory Authority, through their own especially designated staff.

(2) The provisions of art. 18 are completed by the provisions of the Government Ordinance 2/2001 concerning the legal status of contraventions, approved as amended and completed by Law 180/2002, as further amended and completed.

This law transposes the provisions of Council Directive 2004/67/EC of 26 April 2004 concerning measures to safeguard security of natural gas supply, published in the Official Journal of the European Union (OJEU) L 127 of 29 April 2004.

This law has been adopted by the Parliament of Romania, having due regard to the provisions of art. 75 and art. 76 par. (2) of the Constitution of Romania, republished.

**PRESIDENT OF THE DEPUTIES CHAMBER
BOGDAN OLTEANU**

**PRESIDENT OF THE SENATE
NICOLAE VĂCĂROIU**

Bucharest, 3 December 2007.

No 346