

Report by the Energy Community Secretariat **on the Implementation of Regulation (EU) 2022/1032** **(the Storage Regulation)**

1. Background

The Energy Community adopted Regulation (EU) 2017/1938 on 30 November 2021, adapted for the purposes of its transposition by the Contracting Parties. The text of the adopted Regulation corresponds largely to the original Regulation of the EU, with the exception of the regional dimension and solidarity provisions.

At the time of adoption, the prices of gas in Europe had been soaring compared to the low levels during the pandemic and before. Moldova was the first country to be impacted by this development and declared an emergency in October 2021. Moreover, the full-scale war of aggression by the Russian Federation against Ukraine on 24 February 2022 led to a humanitarian crisis in Ukraine, destroys much of the country's economy and significantly deteriorates the security of energy supply. The effects of this war have been affecting the whole of Europe and beyond. The EU reacted by adopting the REPowerEU plan.

The Contracting Parties were still making plans for transposing the Security of Gas Supply Regulation (EU) 2017/1938 when Regulation (EU) 2022/1032 (the Storage Regulation) was adopted by the EU on 30 June 2022.

The Energy Community incorporated the adapted Storage Regulation at unprecedented speed, namely within three months of its adoption in the EU.¹ The Storage Regulation entered into force on 1 October 2022 in the Energy Community. It requires the Contracting Parties to ensure that their undergoing storage is filled up to at least 80% of its capacity by 1 November 2022, and to at least 90% on 1 November 2023 and in subsequent years.

For countries that have significant underground storage capacity, the Storage Regulation reduces the obligation to fill their underground gas storage facilities to 35% of their average annual gas consumption over the preceding five years. In the Energy Community, Ukraine is subject to such reduction.

Beyond the filling targets, the adapted Storage Regulation imposes the obligation on the Contracting Parties to ensure that storage system operators located on their territories are certified, in line with a binding opinion issued by the Energy Community Secretariat.

¹ Incorporated and adapted by the Ministerial Council Decision 2022/01/MC-EnC adapting and implementing Regulation (EU) 2022/1032 of the European Parliament and of the Council amending Regulation (EU) 2017/1938 as adapted and adopted in the Energy Community by Ministerial Council Decision 2021/15/MC-EnC, and Regulation (EC) No 715/2009 as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC, with regard to gas storage.

2. Legal basis and the context of the annual report

Article 17a of Regulation (EU) 2017/1938, as adapted and adopted for the Energy Community, states that the Energy Community Secretariat shall submit by 1 June 2023 and annually thereafter to the Ministerial Council, containing:

- an overview of the measures taken by the Contracting Parties to fulfil the storage obligations;
- 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;
- an overview of the measures requested by the Energy Community Secretariat in order to ensure compliance with the filling trajectories and the filling targets;
- an analysis of the potential effects of this Regulation on gas prices and potential gas savings in relation to Article 6b(4).

The report shall contribute to expanding the knowledge base on best practices for filling storage sites.

3. Storage capacities in the Energy Community Contracting Parties

In the Energy Community, only two Contracting Parties have storage capacities, namely Ukraine and Serbia.

In Ukraine, the 12 underground storages operated by *Ukrtransgaz* are located across the country, with a total capacity of 31 bcm. All gas storage facilities are located on the territory controlled by Ukraine, with the exception of one with 0.4 bcm capacity located on the territory illegally occupied by the Russian Federation since 2014 and not operated by *Ukrtransgaz*. *Ukrtransgaz* is fully owned by *Naftogaz*, a vertically integrated undertaking, which in turn is fully state-owned. The corporate rights in *Naftogaz* are managed by the Cabinet of Ministers of Ukraine. The storage operation framework, based on the Third Energy Package, is well-developed in Ukraine. Ukraine is subject to a reduced storage obligation (35% of the average annual demand for the past five years) because of its vast capacities compared to its annual demand.²

The storage capacity operated by *Ukrtransgaz* can satisfy more than Ukraine's annual demand for natural gas. The average demand in the last 5 years has always been at the level or below the total storage capacity (estimated at an average of 28.9 bcm for 2017-2021). Also, the withdrawal rates of the Ukrainian storages are large enough to cover the total demand on a typical cold winter day.

Serbia's only storage capacity, *Banatski Dvor Ltd*, has 450 mcm of working volume capacity. The UGS *Banatski Dvor* is majority owned by *Gazprom Export* (51%) while *Srbijagas*, (100% Serbian state-owned company and not unbundled in line with the Third Energy Package),

² Similar to Latvia in the EU

holds 49% shares. The existing legal and regulatory framework for storages in the Republic of Serbia is not applied to UGS *Banatski Dvor*.

The other Contracting Parties with existing gas markets (Moldova, North Macedonia, Bosnia and Herzegovina) do not have storage facilities in their territories. Nevertheless, they have to comply with the storage obligations in the same way as EU Member States without storage facilities.

Bosnia and Herzegovina, Moldova, North Macedonia, Serbia, and Ukraine are referred to, for the purpose of this report, as the Contracting Parties concerned. Albania, Kosovo* and Montenegro are currently without gas markets and hence not concerned. Georgia is exempted from the obligations under the Storage Regulation until it either has built a storage capacity or is interconnected with another Party to the Energy Community Treaty.

Ukraine adopted a Law on the Certification of Gas Storage Operator to transpose the Gas Storage Regulation in December 2022. The other Contracting Parties concerned need yet to transpose fully the Storage Regulation.

4. Overview of measures taken by Contracting Parties to fulfil the storage obligations

All Contracting Parties concerned are required to implement measures to meet the filling targets. While market-based measures should be implemented by default, other measures such as regulatory or financial incentives are also possible. The Regulation lists a non-exhaustive inventory of such measures. To follow up, the Secretariat sent a questionnaire to the competent authorities of all Contracting Parties, asking them to describe the tools and measures already implemented or to be implemented for compliance with the Storage Regulation. Of the Contracting Parties concerned only Moldova submitted a comprehensive response. Nevertheless, the Secretariat has identified several measures that were implemented to fill the storage in time with the deadlines of the Storage Regulation:

- In *Ukraine*, the Government adopted a decision imposing obligations on the state-owned companies to fill storage to 19 bcm, including the cushion gas volume; however, the target had already been reached prior to the adoption of the decision. Ukraine also ensured that the booked capacities are effectively used by applying a use-it-or-lose-it mechanism. Naftogaz imported additional quantities from the EU to enable the target level of the working volume for gas; Ukraine's government;
- Moreover, *Ukraine* applies an incentive regime for storage of gas by way of a customs warehouse regime under which stored gas is customs-free for 3 years.
- In *Moldova*, the Government adopted a decision regarding the creation and maintenance of security stocks of natural gas, designated JSC Energocom (state-owned company) as the entity for the creation and maintenance of security stocks; the Government decision imposed that the costs for enabling stocks are to be covered from the financial contributions paid by suppliers on the retail natural gas market imposed financial contributions to suppliers on the retail natural gas market;
- In addition, Moldova's actions were supported by the EBRD loan; these efforts resulted in having gas stored in the neighbouring countries (most notably Ukraine), ensuring that at the

end of the winter season 2022/23 stored gas was higher than 15% of Molodva’s annual average demand.

- *Serbia* has signed a memorandum of understanding on the continuation of the cooperation with Hungary, which translated into using Hungarian storage capacities for Serbian customers; *Srbijagas*, the state-owned supplier and trader, purchased additional quantities from the market to store gas in *Banatski Dvor* and in the Hungarian storages, having filled its part of *Banatski Dvor* up to 100% and additionally injected cca 380mcm in the Hungarian storage system; for such a purpose, *Srbijagas* booked 500mcm of Hungarian storage capacities;
- To assist specifically the Contracting Parties without storage, the Secretariat drafted a template for a Burden Sharing Agreement. Although it was further elaborated between the government of Ukraine and the government of Moldova, such an Agreement was not signed till now.

As a result of the Contracting Parties’ efforts and measures implemented, the 80% filling target was exceeded.

Filling levels on 1 Nov 2022³

Contracting Party	% level	Working gas volume
Serbia	100%	5.5TWh
Ukraine	34.4%	105.31TWh

5. Demand aggregation

The Energy Community has not incorporated Regulation (EU) 2022/2576⁴ on coordinated gas purchases. However, the Contracting Parties’ gas undertakings have been invited to participate in the Joint Procurement Mechanism established under this Regulation. The Secretariat made significant efforts to join forces with the EU and bring as many as possible stakeholders from the Contracting Parties to register, participate and engage in AggregateEU, the demand aggregation and joint purchasing service operated by Prisma under the EU Energy Platform. The Contracting Parties and the Secretariat are represented in the ad hoc steering board and at the industry advisory group established under the mechanism.

Initially, the companies from three Contracting Parties with the most developed gas markets, namely Moldova, Serbia and Ukraine anticipated an overall potential gas demand for the next winter of cca 3.8 bcm. It has yet to be seen which quantities would be submitted for aggregation and matched with supplies in the future. North Macedonian companies may join the mechanism in the foreseeable future.

6. Overview of the time needed for the certification procedure

³ Source AGSI database on 1 Nov 2022 and the Secretariat’s own database

⁴ Council Regulation (EU) 2022/2576 of 19 December 2022 enhancing solidarity through better coordination of gas purchases, reliable price benchmarks and exchanges of gas across borders

Under the Storage Regulation, Contracting Parties must ensure that each storage system operator is certified by a national regulatory authority or other designated authority (certifying authority). The Storage Regulation amended the Third Energy Package's Gas Regulation, and requires the certifying authority to take into account any security of gas supply risk at national, or Energy Community level as well as any mitigation of such risk, resulting, inter alia, from:

- a) ownership, supply or other commercial relationships that could negatively affect the incentives and the ability of the Storage System Operator (SSO) to fill the underground gas storage facility;
- b) the rights and obligations of the Energy Community with respect to a third country arising under international law;
- c) the rights and obligations of the Contracting Parties concerned with respect to a third country arising under agreements concluded by the Contracting Parties concerned with one or more third countries, in so far as those agreements comply with Energy Community law; or
- d) any other specific facts and circumstances of the case.

Certification is to be refused if a person directly or indirectly controls, or exercises any right over, the SSO could endanger the security of energy supply or the essential security interests of the Energy Community or of any Contracting Party. Thus, the emphasis of the certification of storage facilities or storage system operators is on the assessment of whether there are any elements that could negatively affect the incentives and the ability of storage operators to fill the gas storage facility.

The Storage Regulation requests that the certifying authority issues a draft certification decision in respect of storage system operators operating facilities with a capacity of over 3,5 TWh where, regardless of the number of storage system operators, total storage facilities were filled on 31 March 2021 and on 31 March 2022 at a level which, on average, was less than 30% of their maximum capacity by 27 February 2023 or within 150 working days of the date of receipt of a notification. No such cases existed in the Energy Community Contracting Parties.

In respect of all other storage system operators, the certifying authority shall issue a draft certification decision by 31 March 2024 or within 18 months of the date of receipt of a notification. The amended Gas Regulation empowers the Secretariat to deliver a *binding* opinion on the draft certification decision to the certifying authority within 25 working days of such notification. The certifying authority shall comply with the Energy Community Secretariat's opinion henceforth by issuing the final certification decision within 25 working days of receipt of the Secretariat's opinion.

Until now, Ukraine is the only Contracting Party that has certified its storage system operator, *Ukrtransgaz*, in line with the Storage Regulation. It was the second one in Europe after Belgium's *Fluxys* to do so. Ukraine's national regulatory authority, NEURC, had adopted a Procedure for the certification of the Gas Storage Operator in January 2023. *Ukrtransgaz* submitted to NEURC a request for certification of *Ukrtransgaz* on 27 January 2023. NEURC's preliminary decision was notified to the Secretariat on 3 March 2023. The Secretariat issued a positive binding opinion on 31 March 2023, with which the NEURC complied and adopted a final certification decision on 7 April 2023.

Serbia has not yet initiated the certification of its storage system operator, *Banatski Dvor Ltd.* To assist Serbia in this process, the Secretariat developed draft amendments to the national energy law and shared with the Serbian competent authority, the Ministry of Energy. The amendments would empower the national regulatory authority to certify the storage operator. The certification is due by 31 March 2024.

7. Overview of the measures requested by the Energy Community Secretariat in order to ensure compliance with the filling trajectories and the filling targets

The Storage Regulation requires Contracting Parties to both achieve the mandatory filling targets on 1 November and to maintain certain filling levels throughout the year. Moreover, the Regulation requires Contracting Parties to maintain the filling targets in accordance with filling trajectories. For the two Contracting Parties with underground gas storages on their territories, Serbia and Ukraine, the Secretariat adopted a Decision on 15 November 2022⁵, which sets the intermediate gas storage filling targets.

The Regulation obliges Serbia and Ukraine to meet the following targets in 2023 in order to reach the 90% gas storage target by 1 November 2023.

The Energy Community filling trajectory with intermediate targets for 2023:

Contracting Party	February 1 st Intermediate target	May 1 st Intermediate target	July 1 st Intermediate target	September 1 st Intermediate target
Serbia	50%	15%	45%	70%
Ukraine*	33%	23%	47%	58%

*for Ukraine, the filling target is reduced to 35 % of its average annual gas consumption

The Decision takes into account the general security of gas supply situation and the development of gas demand-supply in the Energy Community and individual Contracting Parties and aims at avoiding unnecessary burdens on Contracting Parties.

Besides filling the storages, the withdrawals from storages also need to be taken into account when monitoring risks to security of supply. If a Contracting Party deviates significantly from the filling trajectory and endangers the filling target, the Secretariat will, after consulting the Security of Supply Group of the Energy Community and the Contracting Party concerned, issue a Recommendation to that Contracting Party requesting measures to be taken immediately. The Secretariat may also adopt a Decision, as a last resort option, in case the Contracting Party concerned fails to address the deviations.

⁵ <https://www.energy-community.org/news/Energy-Community-News/2022/11/17.html>

Both Contracting Parties with storage facilities complied with the intermediary targets set for 1 February 2023 and 1 May 2023 intermediate targets, and their minimum filling level did not experience a substantial or sustained deviation from the target. The Secretariat thus did not have to take measures to ensure compliance with the filling trajectories and filling targets.

Contracting Party	February 1 st Working gas volume	May 1 st Working gas volume
Serbia	5,5 TWh	5,5 TWh
Ukraine*	66,52 TWh	50 TWh

As the prices on the gas markets are decreasing in 2023, with the prices reaching the levels of spring 2021, the Contracting Parties should take more market-oriented measures for the next winter.

8. Analysis of the potential effects on gas prices and potential gas savings

The Secretariat recalls the European Commission’s Report on the implementation of the EU Storage Regulation⁶, according to which it was not possible to establish a relationship between the gas price dynamics and the filling of gas storage in the EU. This is even truer for the Energy Community Contracting Parties which makes up a smaller portion of both European gas markets and storage capacities. In addition, the prices in both Contracting Parties with storages did not reflect the prices from the relevant gas hubs. In Ukraine, due to the export ban on domestically produced natural gas, domestic resources were used to cover up to 90% of the national demand under regulated prices. Those prices are not reflecting European hub prices. In Serbia, the wholesale prices for a vast portion of consumers reflects the prices from long-term contracts with *Gazprom*. The long-term contract prices mechanism is kept classified and unavailable for analysis.

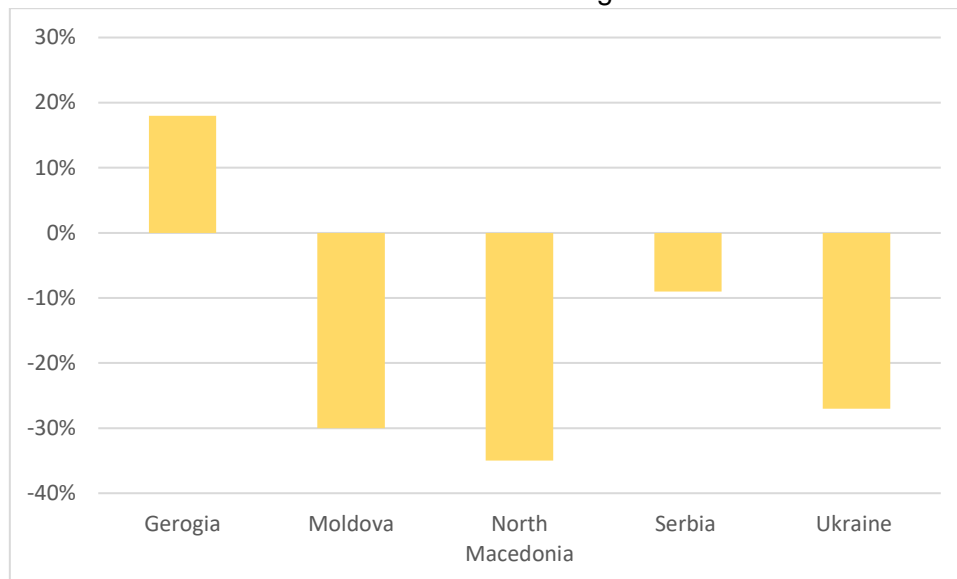
The rest of the demand in both countries was covered by imports by the state-owned companies, which, to the Secretariat’s best knowledge, do not pass the purchasing costs on to the customers.

The Energy Community has not transposed Regulation (EU) 2022/1369⁷ on coordinated demand-reduction measures for gas. Yet the majority of the Contracting Parties implemented some reduction or efficiency measures. The impact of the demand reduction to specific sectors is not yet known. In Ukraine, the industry sector demand was significantly reduced due to war. Moldova implemented various demand reduction measures, such as switching several big gas consumers to heavy oil, and biomass boilers, as well as limiting temperature in public buildings. Due to significantly increased retail gas tariffs, the household sector reduced its consumption further.

⁶ https://energy.ec.europa.eu/news/commission-report-underlines-positive-impact-gas-storage-regulation-2023-03-27_en

⁷ Council Regulation (EU) 2022/1369 of 5 August 2022 on coordinated demand-reduction measures for gas

Gas Demand Reduction in Contracting Parties 2022/2021⁸



It is to be expected that current and future gas demand reduction measures will facilitate the storage injections and fulfilment of the gas storage target.

9. Conclusion

The Storage Regulation sets a uniform regulatory framework for the Energy Community as a whole – the EU and the Contracting Parties – for measures ensuring minimum levels of gas storage filling. The proper and timely implementation of the Regulation enables the Contracting Parties to be better prepared for upcoming winter seasons.

The Contracting Parties with storages (Serbia and Ukraine) fulfilled the 1 November 2022 target and intermediary targets on 1 February and 1 May 2023. This has strengthened the security of supply situation in the winter 2022/2023 and is providing a solid basis to reach the 90% target on 1 November 2023 (taking into account the 35% reduction for Ukraine).

The Contracting Parties used a variety of measures to ensure the filling targets, though primarily not market-based measures. The Secretariat invites the Contracting Parties to rely on market-based measures to the largest extent possible, such as: tendering the capacities to market participants; having a mechanism in place for when the total capacity subscribed is below the minimum filling level, for example pre-agreed terms with market participants for the complementary volume; ensuring that the capacities booked are effectively used by applying a ‘use it or lose it’ mechanism or imposing penalties for non-compliance.

The Contracting Parties without storages should make additional efforts to implement the storage obligations in line with the Storage Regulation and use available instruments in place, such as signing Burden Sharing Agreements and ensuring to have storage capacities for a

⁸ source: ECS estimations based on preliminary data

portion of their annual demand (at least 15%) in the neighboring countries. This concerns in particular Bosnia and Herzegovina and North Macedonia.

All Contracting Parties should make use of the template for burden sharing mechanism developed by the Secretariat, which can be used both among them and with the EU Member States.

One out of the two storage system operators in the Energy Community Contracting Parties, Ukrtransgaz of Ukraine, is certified. Ukraine should make the best efforts to increase the business case for its national gas storage system, refrain from imposing cumbersome administrative requirements and implement additional measures to mitigate regulatory (including gas export ban) and war-related risks to exploit its capacity to the maximum extent possible and increase both the security of supply of Ukraine, the Contracting Parties, and of the European Union. Those efforts should be supported by international partners.

Serbia should amend its legislation and accelerate the certification of its national storage system operator.