

ANNEX XXXI

EARLY WARNING MECHANISM

1. The Union and the Republic of Moldova hereby establish an Early Warning Mechanism with the objective of setting out practical measures aimed at preventing and rapidly reacting to an emergency situation or to a threat thereof. It foresees an early evaluation of potential risks and problems related to the supply and demand of natural gas, oil or electricity and the prevention and rapid reaction in case of an emergency situation or a threat thereof.
2. For the purposes of this Annex, an emergency situation is a situation causing a significant disruption or a physical interruption of supply of natural gas, oil or electricity between the Union and the Republic of Moldova.
3. For the purposes of this Annex, the Coordinators are the Minister of the Republic of Moldova in charge of Energy and the Member of the European Commission in charge of Energy.
4. Regular evaluations of potential risks and problems related to the supply and demand of energy materials and products should be undertaken jointly by the Parties and reported to the Coordinators.
5. Should one of the Parties become aware of an emergency situation or of a situation which, in its opinion, could lead to an emergency situation, that Party shall inform the other Party without delay.
6. Under the circumstances set out in paragraph 5, the Coordinators shall notify each other, within the shortest possible time, of the necessity to initiate the Early Warning Mechanism. The notification shall indicate, inter alia, designated persons that are authorised by the Coordinators to maintain permanent contact with each other.
7. Upon notification in accordance with paragraph 6, each Party shall provide the other Party with its own assessment. Such an assessment shall include an estimate of the timeframe within which the emergency situation or the threat thereof could be eliminated. The Parties shall react promptly to the assessment provided by the other Party and complement it with available additional information.
8. If one Party is unable to adequately assess or accept the other Party's assessment of the situation, or the estimated timeframe within which an emergency situation or a threat thereof may be eliminated, the corresponding Coordinator may request consultations, which are to commence within a time period not exceeding 3 days from the moment of forwarding the notification provided for in paragraph 6. Such consultations shall take place through an Experts Group consisting of representatives authorised by the Coordinators. The consultations shall aim at:
 - (a) elaborating a common evaluation of the situation and of possible further developments;
 - (b) elaborating recommendations to overcome the emergency situation or to eliminate the threat thereof;
 - (c) elaborating recommendations on a joint action plan in order to minimise the impact of an emergency situation and, if possible, to overcome the emergency situation, including the possibility of establishing a Special Monitoring Group.
9. The consultations, common evaluations and proposed recommendations shall be based on the principles of transparency, non-discrimination and proportionality.
10. The Coordinators, within their competencies, shall work to overcome the emergency situation or to eliminate the threat thereof taking into account the recommendations that have been elaborated as the result of the consultations.
11. The Experts Group referred to in paragraph 8 shall report on its activities to the Coordinators promptly after the implementation of any agreed plan of action.
12. If an emergency situation occurs, the Coordinators may establish a Special Monitoring Group with the task of examining the ongoing circumstances and development of events and keeping an objective record of them. The Special Monitoring Group shall consist of:
 - (a) representatives of both Parties;
 - (b) representatives of energy companies of the Parties;

- (c) representatives of international energy organisations, proposed and mutually approved by the Parties;
 - (d) independent experts proposed and mutually approved by the Parties.
13. The Special Monitoring Group shall start its work without delay and shall operate, as necessary, until the emergency situation has been solved. A decision on the termination of the work of the Special Monitoring Group shall be taken jointly by the Coordinators.
 14. From the time at which a Party informs the other Party of the circumstances described in paragraph 5, and until the completion of the procedures set out in this Annex and the resolution of the emergency situation or the elimination of the threat thereof, the Parties will do their utmost to minimise negative consequences for the other Party. The Parties shall cooperate with the aim to reach an immediate solution in a spirit of transparency. The Parties shall refrain from any actions unrelated to the ongoing emergency situation that could create or deepen the negative consequences for the supply of natural gas, oil or electricity between the Union and the Republic of Moldova.
 15. Each Party independently carries the costs relating to the actions in the framework of this Annex.
 16. The Parties shall maintain in confidence all information exchanged between them that is designated as being of a confidential nature. The Parties shall take any necessary measures to protect confidential information on the basis of the relevant legal and normative acts of the Republic of Moldova, or the Union and/or its Member States, as applicable, as well as in accordance with applicable international agreements and conventions.
 17. The Parties may invite, by mutual agreement, representatives of third parties to take part in the consultations or monitoring referred to in paragraphs 8 and 12.
 18. The Parties may agree to adapt the provisions of this Annex in view of establishing an Early Warning Mechanism between them and other Parties.
 19. A violation of the Early Warning Mechanism cannot serve as a basis for dispute settlement procedures under Title V (Trade and Trade-related Matters) of this Agreement. Moreover, a Party shall not rely on, or introduce as evidence in such dispute settlement procedures:
 - (a) positions taken or proposals made by the other Party in the course of the procedure set out in this Annex; or
 - (b) the fact that the other Party has indicated its willingness to accept a solution to the emergency situation subject to the Early Warning Mechanism.
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