



Regulation and Directive on the internal markets for renewable and natural gases and for hydrogen

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Executive summary

Targeted use of alternative gases and hydrogen

Renewable gases, especially biomethane and hydrogen, play an essential role in the decarbonisation process. However, the production of biomethane and hydrogen in the European Union is limited. The objective is to avoid **conflicts over raw materials** and **extensive land use**. Both hydrogen and biomethane are **significantly more expensive** than other CO₂-free energy sources. In the case of Austria, studies show that two thirds of the country's future demand will need to be covered by imports.

For these reasons, hydrogen and alternative gases should only be used **in those sectors** that otherwise **lack decarbonisation options**, such as energy-intensive industry or heavy-duty transport sectors. In addition, alternative gases and hydrogen will also serve as a storage medium for electricity. However, the use of [biomethane and hydrogen for space heating is not efficient](#).

Strengthening consumer rights and actions against energy poverty

Given the ambitious EU decarbonisation targets and the relatively short period to 2050, the most urgent target is to help households switch to renewable, affordable energy supplies. Therefore, it is paramount **to avoid any lock-in effects** into fossil natural gas supply. Hence, a detailed plan for phasing out fossil natural gas must be submitted.

The expansion of hydrogen infrastructure shall not be at the expense of consumers. The directive does not rule out the possibility of passing on the costs of network use for alternative gases and hydrogen to private households. AK firmly rejects such cross-subsidisation. In accordance with the **"polluter pays" principle**, the **costs** are to be borne **by the actual network users**.

Expressly welcomed is the EU Commission's stronger focus on the issue of **energy poverty**, as the aim is to **avoid a two-tier energy society**. Being able to make regulatory interventions on gas prices for energy-poor households is an important tool to ensure affordable gas supplies, not least because of the current massive rise in gas prices throughout the EU. In order to create effective competition in a transitional phase this measure can be temporarily extended to all private households and even to micro companies. In addition to address energy poverty over the longer term, it would be appropriate to establish an [Energy and Climate Aid Fund](#) at national level.

Important for the **enforcement of consumer rights** is the proposed mandatory set-up of a dispute settlement mechanism as well as the mandatory submission of companies to this procedure. Unfortunately, the directive provides the opportunity for Member States to deviate from this. The latter undermines the function of the dispute settlement mechanism, therefore it has to be removed.

In AK's view, the **improved termination rights** should also extend to contracts with commitment periods. The current massive increase in prices for natural gas proves this necessity. However, AK suggests that the final reminder - which contains information on how to avoid disconnections - should be sent by letter, and only delivered against the recipient's signature.

As regards consumer rights, AK welcomes the ability to **switch energy suppliers quickly**. However, in view of the increasingly complex energy system and massively rising gas prices, there is a need for independent portals for comparison as well as protection and information mechanisms for household customers.

Distribution networks should be operated exclusively by **licensed network operators**, which are fully subject to the regulatory regime of the Energy Regulatory Authority. Furthermore, the impact of regulations on new market participants should be evaluated in a comprehensive cost-benefit analysis and adjustments made if necessary.

AK's position

On 15 December 2021, the European Commission presented the second part of the "Fit for 55" package, which includes several legislative proposals in order to reduce greenhouse gas emissions by 55% by 2030.

The Austrian Federal Chamber of Labour (AK) supports the goal of EU-wide decarbonisation by 2050. In addition, AK also supports the ambitious targets that the EU aims to achieve when it comes to reducing greenhouse gas emissions, expanding renewable energies, improving energy efficiency, and reducing energy use by 2030. The related phase-out of fossil fuels will bring about a profound change in the economy and society, comparable to the industrial revolution. This process must be designed fairly and support workers as part of a "Just Transition". Disadvantageous effects must be mitigated, whilst the positive potential inherent in this transformation must be used in the interests of workers.

This means that policymaking is in urgent need of examining and understanding the implications for the quantity and quality of employment as well as for cohesion in society. Policies must be designed in a way that enables them to contribute the most to high employment rates and equal distribution of wealth. Otherwise, there is a risk that the population will not sufficiently support the necessary changes and climate targets will not be achieved as a result. AK recognises that the Commission incorporated considerations on fairness, distribution, and employment when developing the "Fit for 55" package.

Proposals for a new regulation and a new directive on the internal gas and hydrogen market are also within the "Fit for 55" package. The aim is to replace natural gas with CO₂-free or low-CO₂ gases and hydrogen, while implementing a market-based system for gases and hydrogen at the same time. The focus revolves around the creation of a completely new market design for hydrogen and green gases and the strengthening of gas consumer rights in analogy to the electricity market.

First, CO₂-free as well as low-CO₂ gases and hydrogen will be defined, and a cross-border certification system will be installed (whereby low-CO₂ gases must show a CO₂ saving of at least 70% compared to natural gas). With a few exceptions, the market design for hydrogen and alternative gases is the same as for natural gas. As in the electricity and natural gas sectors, the EU Commission is proposing the unbundling of production, distribution, and networks for hydrogen starting from the end of 2030 at the latest. In addition, it regulates third-party access and interconnection of existing hydrogen networks, as well as cross-border operability.

The EU Commission emphasises the importance of consumer rights, this is especially true for the proposed Directive. The proposal strengthens consumer rights in many areas – in analogy to the electricity sector – although not always successfully. New is that the Commission allows regulatory intervention on gas prices for low-income households. Furthermore, the Commission proposes measures for low-income households, such as a disconnection ban at "critical times". New information obligations of energy suppliers' towards household customers will be defined, as will the establishment of an out-of-court dispute settlement mechanism and a one-stop shop to advise private customers. In addition, regulations on citizens' energy communities and on "active customers" are also provided for.

Internal Gas Market Directive

Article 2: Competitive, consumer-centric, flexible, and non-discriminatory gas markets

To choose a supplier freely is a fundamental right of consumers in the internal market. However, in light of the decarbonisation targets by 2050, AK believes that it must be specified clearly and in a transparent manner that consumers are not entitled to a natural gas supply contract if there is no longer a connection point or an alternative supply with renewable energies available (e.g. with district heating).

Article 4: Market-based prices

AK welcomes the proposal of the Commission to allow Member States to regulate gas prices for energy-poor households – and in case of a lack of competition – for all households as well as for micro enterprises for a limited period. Given the increasingly volatile development of energy prices for private households and that the current gas prices remain on an extremely high level, such intervention options are necessary and meaningful. The same is true in order to ensure the necessary support of private households for the decarbonisation process. However, these public interventions should only be allowed for the gas prices of energy-poor households or private households and micro enterprises.

Article 5: Public service obligations

AK welcomes the option for Member States to impose public service obligations in the general economic interest on gas and hydrogen undertakings. Such provisions are particularly necessary in the sensitive area of services of general interest, where a secure, affordable, and sustainable energy supply must be guaranteed.

Article 10: Basic contractual rights

Concerning contracts between suppliers and customers, AK expressly welcomes their expansion of content, particularly the references to procedures for initiating out-of-court dispute resolution proceedings and information on the handling of complaints. In AK's view, suppliers should be required to list the contact details of information centres regarding questions about consumer rights and options in the event of payment difficulties.

Furthermore, the improved termination rights should be extended to contracts with commitment periods. This is because consumers are often at the mercy of price increases even in the case of time-bound contracts – as shown by complaints from customers due to the current price increases for fossil natural gas, some of which are extreme.

AK particularly welcomes the proposed regulations to avoid disconnections. In order to ensure that customers actually receive the information about the impending disconnection and possible countermeasures, the final reminder before disconnection should be sent by letter, and only delivered against the recipient's signature (registered letter), a requirement that has already been effectively implemented in Austria for gas suppliers and gas distribution system operators.

Article 11: Bill of exchange right

From a consumer law perspective, short switching periods, such as the proposed reduction of the switching period to a maximum of 24 hours from 2026 at the latest, are to be welcomed. However, in light of the increasing complexity of energy supply the risk of customers inadvertently switching to a more expensive supplier should not be underestimated. For this purpose, it is crucial to provide sufficient and understandable information – for example, concerning contract duration, switching discounts, dynamic time-based rates, etc. A fee-free switch is welcomed and should generally apply to all contract terminations.

Article 12: Comparison portals

Secure and independent comparison tools that present offers of all gas suppliers in a transparent and understandable manner are a key instrument for enabling a secure change of supplier. National energy regulators should perform this task.

Articles 13 & 14: Active Customer and Citizen Energy Communities

It is to be expected that mainly large commercial customers and not private households will take up the opportunity to produce and sell renewable gases themselves. In AK's view, attention must be paid that active customers are not discriminated against, but also that these customers sufficiently take their necessary systemic responsibility.

This requirement must also apply to citizen energy communities. AK opposes the possibility of granting citizens' energy communities the right to operate distribution grids. In AK's opinion, only licensed distribution system operators should be allowed to operate gas distribution systems.

Article 15: Invoice and billing information

It is of particular importance to consumers that the energy bill is understandable, especially the total amount that has to be paid. Furthermore, it is essential that information can be obtained easily, free of charge, and comprehensibly in the event of questions. AK therefore welcomes the improved transparency provisions.

Articles 16-22: Smart metering systems in the natural gas and hydrogen system

The introduction of smart metering systems must be subject to a strict cost-benefit analysis. At the same time, a distinction between household customers and large (commercial) customers must be made. As complaints from household customers show, in some cases the costs for smart metering systems in relation to gas consumption are very high. With the average gas consumption of a household, the realistic savings possibilities are also limited and generally known (common energy saving recommendations). It should be noted that gas consumption is higher when the building is in poor energetic and thermal condition and, in the case of multi-storey housing, cannot be directly influenced by the tenants. Therefore, ensuring that the cost of a metering system for household customers is not higher than the cost of the energy saved is key. As explained above, the use of hydrogen is only appropriate in certain commercial and industrial sectors; these have different requirements for metering systems and data protection than household customers.

Articles 23 & 24: One stop shop and right to out-of-court dispute settlement

Due to the increasingly complex energy system in the context of decarbonisation and an increasing amount of energy market actors, it is important for household customers to be able to turn to a competent body for information about their rights and on how to enforce them. AK therefore expressly supports the establishment of one stop shops, but points out that they must be adequately equipped both financially and in terms of personnel. Equally important are the out-of-court dispute settlement procedures proposed

in this directive. However, this out-of-court dispute settlement can only be effective in practice if it has sufficient financial resources and is staffed by experts. Ensuring that gas companies are obliged to submit to the procedure is paramount. In this sense, AK criticises the fact that Member States can refrain from establishing a dispute settlement body if they are able to refer to other, equivalent mechanisms. In AK's opinion, this exception should be removed.

Article 25: Vulnerable customers

A secure and affordable supply of energy is essential. Sufficient and appropriate safeguards must be put in place, especially for low-income households and other vulnerable groups. For AK, the Commission's stronger focus on the issue of energy poverty is of vital importance in order to avoid a two-tier energy society. The current massive increases in gas prices demonstrate the need to create resilient policies to address energy poverty. In this context, AK proposes the creation of energy and climate aid funds on Member State level. The intention is to

- help energy-poor households with paying their energy bills in the short term,
- ensure an affordable and continuous energy supply in the medium term, and
- enable households with the lowest incomes to participate in a climate-neutral future in the long term, thus combating energy poverty in a sustainable manner.

As mentioned, the supply of households and especially of energy-poor households with (renewable) hydrogen is not expedient.

Article 27: Third-party access to natural gas distributors, gas transmission pipelines and LNG terminals

AK welcomes the limitation of long-term contracts for the supply of fossil natural gases so that their term does not extend beyond 2049. However, AK suggests adjusting these deadlines to national decarbonisation targets, some of which require an earlier phase out of natural gas.

Article 34: Access and connection refusal

In the case of fossil natural gas, AK is convinced that, in principle, there should no longer be an access and connection obligation. On the contrary, before

making a new connection to the gas grid, a mandatory alternative assessment must take place. Such an audit evaluates the options for energy supply, including also CO₂ emissions. Preference should be given to district and local heating, heat pumps, or geothermal energy over natural gas, alternative gases or hydrogen, in order to avoid bad investments and lock-in effects for private households.

Article 40: Tasks of the gas distribution system operators

In AK's view, natural gas distribution system operators should also be responsible for considering national and EU decarbonisation targets as part of their business activities. The measures taken for this purpose should be published as part of the annual or sustainability report. In addition, gas distribution system operators should be required to submit new investments and reinvestments to a performance audit that also considers decarbonisation targets. The corresponding specifications for this are to be issued by the national regulatory authorities within the framework of network regulation. In any case, gas pipelines should only be replaced or extended if it is economically feasible and also taking into account the phase out of natural gas.

Article 51: Network development and powers for investment decisions

AK considers it important that transmission system operators have to submit an integrated ten-year network development plan in order to account for the expansion of those energy infrastructures that are required to achieve the energy and climate targets every two years. In addition, this network development plan should contain information and schedules on planned infrastructure decommissioning. From AK's point of view, this is a central provision, given that due to the decreasing demand for fossil natural gas, the gas distribution network will no longer be needed to the same extent in the future renewable energy system that it is currently the case. However, appropriate steps must be taken now to ensure that the costs of the necessary re-dimensioning of gas distribution networks are kept as low as possible and can be reflected in the regulatory framework at an early stage. It is important to scrutinize reinvestments for decarbonisation requirements in advance and to avoid investments that can then only be used for a few years.

Furthermore, regulatory authorities can oblige network operators or commission third parties to

implement the investments listed in the integrated network development plan. In AK's view, it should not be overlooked that infrastructure investments often involve considerable approval effort and thus considerable approval time.

Internal Gas Market Regulation

In principle, AK welcomes the Commission's proposal to regulate hydrogen networks in the same manner as natural gas networks by the end of 2030. However, AK calls for additional measures in order to achieve the decarbonisation targets. Thus, there is a need for a detailed phase-out schedule for natural gas in the Gas Internal Market Regulation, as is a stipulation that hydrogen and alternative gases will only be used in those sectors where there are no other decarbonisation options. This includes parts of the energy-intensive industry or heavy duty transport. The use of alternative gases and hydrogen in the field of electricity production or as a storage medium for excess electrical energy (summer-winter, peak load, and grid stabilisation) is also appropriate. Large-scale use of alternative gases and hydrogen for heating should be prevented throughout the EU.

Article 15: Tariffs and network access

For the feed-in and transport of alternative gases and hydrogen, the Commission envisages a reduction of usually 75% of network charges, but in some cases also 100%. The costs of these discounts are socialised and have to be paid by the other network users. AK vociferously opposes that private households have to subsidise the use of alternative gases and hydrogen indirectly via grid costs. Private households already pay for a disproportionately large share of gas infrastructure costs. In accordance with the "polluter pays" principle, the costs for alternative gases and hydrogen must also be borne by those using these energy sources. In compliance with European subsidy and competition law, subsidies can be provided from public funds. In AK's view, these subsidies must not lead to a disproportionate additional burden on the relatively small group of private gas customers, as is currently envisaged.

Article 52: Adaptation of network codes and directives

The present regulation further expands the possibilities for issuing so-called network codes and extends them to new areas. AK is highly critical in this regard. The processes for creating network codes, as well as their scope and complexity, de facto

preclude broad participation by affected stakeholders. Network codes in other sectors – such as electricity networks – have led to a significant disadvantage for households in Austria. Whilst energy producers now contribute significantly less to network costs, the burden on private households thus has increased. Therefore, AK calls for the creation of network codes to be subject to a democratic process and for their scope to be limited to purely technical issues. Network operators must not be allowed to decide on tariffs themselves or on the allocation of costs to different network users.



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About us

The Austrian Federal Chamber of Labour (AK) represents by law the interests of about 3.8 million employees and consumers in Austria. It acts on behalf of its members in fields of social-, educational-, economical-, and consumer issues both on the national and on the EU-level in Brussels. Furthermore, the Austrian Federal Chamber of Labour is a part of the Austrian social partnership. The Austrian Federal Chamber of Labour is registered at the EU Transparency Register under the number 23869471911-54.

The main objectives of the AK EUROPA Office established in 1991 in Brussels are the representation of AK towards the European Institutions and interest groups. Other objectives are the monitoring of EU policies and transferring relevant information from Brussels to Austria, as well as to lobbying the expertise developed in Austria and positions of the Austrian Federal Chamber of Labour in Brussels.