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MINISTER OF CLIMATE AND ENVIRONMENT

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**Ms Margrethe Vestager
Executive Vice-President
for A Europe fit for the Digital Age
European Commission**

Dear Executive Vice-President,

soaring natural gas prices are becoming more and more pressing issue. Over recent months we could have observed natural gas prices reaching the levels of 165 EUR/MWh at its recent peak on October 5, 2021.

The scale of price spike is unprecedented, reaching over twelve times increase year-on-year. This is significantly higher than the increase in oil prices during oil crises in the 1970s. Not surprisingly industry and citizens demand a proper reaction from the EU.

For that purpose a thorough analysis of the situation is necessary. We welcome such an analysis conducted in the Commission Communication of October 13, 2021 *Tackling rising energy prices - a toolbox for action and support*. Indeed, soaring global demand for gas and lower-than-expected gas volumes delivered from Russia are tightening the growing market as the heating season approaches. The Commission itself recognises that Gazprom has offered little or no extra capacity to ease pressure on the EU gas market.

Understanding the mechanism standing behind those lower-than-expected deliveries is key to understand the very nature of the current Europe's gas shortage and to develop an appropriate political and market response.

In recent months several practices could be observed by the Russian pipeline gas export monopoly company – Gazprom, that are different from its behaviour in previous years and from standard behaviour of other market participants:

- Gazprom makes no additional capacity bookings via Yamal pipeline and via Ukrainian Gas Transmission System (UGTS). The reductions are significant - reaching even more than 60% now and 90% starting from November on the Yamal pipeline and 55% on UGTS. For October, only about 30% of the available technical capacity at the entry point (Kondratki) and at the exit point (Mallnow) has been purchased. Additionally, the pipeline is not booked in the long term, but only as a monthly product.
- Gazprom is limiting flows through routes other than Nord Stream 1, despite the high level of gas production in Russia and a rising demand for gas across the EU.
- The flexibility offered by European gas storage facilities was highly used in the winter season 2020/2021, resulting in a low level of storage at the beginning of the injection season in 2021. Despite the fact that the EU gas infrastructure has been fully operational during the summer season, there is currently a historically low filling level of European storages (approx. 75%). The situation varies greatly between the EU member states, with storage facilities owned by Gazprom, filled in at the level of approx. 26%. This in turn may well have a negative impact on the flexibility of the gas system and may increase the exposure to demand curtailment in the later part of the upcoming winter season.
- Gazprom is keeping sales low and delivering long-term contracts only, despite rising demand in Europe. In particular, it has significantly reduced the trading volumes on its sales platform (ESP) which further limited the volumes delivered to Europe.

Meanwhile, D. Peskov, the Kremlin spokesperson, suggests that a rapid start-up of the Nord Stream 2 gas pipeline from Russian Federation to Germany could help calm record-high gas prices in Europe. That was confirmed by Russian Deputy Prime Minister Alexander Novak, who said that *completion of certification and the fastest clearance for gas supplies via the completed Nord Stream 2 is one of the factors, which could somewhat cool off the current situation*. However, the transmission infrastructure in Poland and Ukraine is already in place and underutilised, making Nord Stream 2 redundant from the perspective of providing incremental volumes of gas on the EU market. The problem lies in lacking volumes and low storage levels, not in insufficient import capacities of currently existing infrastructure from the Russian direction. Therefore, starting the operation of Nord Stream 2 can by no means be a part of any solution to alleviate the current situation on the European markets. Such

statements of Russian officials can only be treated as a misleading and manipulative attempt and clearly show the instrumentalisation of gas supplies by Russia to achieve a political objective.

This creates a picture of a set of deliberate measures resulting in the undersupply of gas from the Russian direction accompanied creating a false sense of urgency to start the operation of Nord Stream 2. We took account of the note of the Agency of Cooperation of Energy Regulators (ACER) presented in Agency's analysis *High energy prices* that current practice of Gazprom needs to lead to discussion on its "potential linkages to the possible entry into operation of the Nord Stream 2". For us it is undoubtful that the goal seems to be clear – to obtain a privileged position on the market for Gazprom and Nord Stream 2 by abuse of dominant position, undermining of the EU legal system.

Moreover, it proves that Gazprom does not resign from their abusive practices, if such means allow to fulfil business and political agenda. Once operational, Nord Stream 2 will become yet another tool for realisation of their political and commercial purposes. Therefore, the only way to fully mitigate the risks of Nord Stream 2 for security of supply and internal gas market is to abandon the project and not allow it to become operational.

The undersupply of gas to the European markets, largely due to misbehaviour of Gazprom, is having a negative impact on the energy markets, European economies and energy consumers. Sky rocketing natural gas and electricity prices, declining competitiveness of European industries, failing gas trading companies, suspension of production in some European factories are a wake-up call for the EU to undertake tangible actions to avoid a repetition of the current situation in the future.

Risks of this situation also for the future should not be underestimated. On October 6, 2021 Moldovagaz informed that due to ongoing negotiations, supplies from Gazprom have been reduced and they do not meet the actual daily consumption of natural gas in the country. Also representatives of AFEER – the Romanian Energy Suppliers Association informed on October 8, 2021 of the lack of requested additional supplies from Gazprom which might be necessary for meeting demand in winter months.

Currently, in reaction to abovementioned attempts, EU needs to reply with full confidence in its procedures and values, as well as with a robust action that confirms its legal, economic and political credibility. Therefore particularly Commission should stand firmly behind EU rules and:

- initiate an in-depth investigation based on art. 102 of the Treaty on Functioning of the European Union to terminate the abusive practices and ensure that they are no longer applied,
- warrant that authorities responsible for certification of Nord Stream 2 pipeline act in full accordance with EU law when analysing Nord Stream 2 AG certification application. Solutions that do not provide for the full ownership unbundling, real third party access and transparent and cost-reflective tariffs to the entire pipeline must not be accepted as they would be contrary to the EU law requirements. To this end, an analysis in terms of security of supplies, required for certification in relation to third countries, should take the energy solidarity principle fully into account. Poland is ready to use all available legal means to provide for Nord Stream 2 full compliance with the EU law,
- use all available tools aimed at assessing real impact of the Nord Stream 2 on the EU energy market and security, in particular launch a screening procedure referred to in the Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union,
- reflect on the natural gas security of supplies system in order to provide instruments that would allow Member States to ensure an appropriate level of storage.

Sincerely yours,

Michał Kurtyka
Minister Klimatu i Środowiska
Ministry of Climate and Environment
/ – digitally signed/