STRATEGIC BRIEF · SB-2026-15 · 28 OCTOBER 2026

The Target and the Floor

What the European Union actually requires of gas storage after the 2025 amendment

I

The claim under examination

The European Union requires its Member States to fill their underground gas storage to 90 per cent before winter. That sentence has been the single most quoted fact about European gas security since 2022, and it is still the sentence used in public to explain why Europe is no longer exposed in the way it was. It appears in ministerial statements, in press summaries of the Council's decision this year, and in the Council's own background note.

In its narrow form the sentence remains true. Article 6a(1)(b) of Regulation (EU) 2017/1938 still carries a binding filling target of 90 per cent. What this brief examines is the distance between that target and the level a Member State can lawfully reach and still be in compliance — and who decides where, between the two, any given Member State ends up.

The answer is that the binding target is 90 per cent and the lawful floor is 70, that fifteen of the twenty points between them are decided by the Member State that invokes them, and that one of the conditions which entitles a Member State to deviate is that its storage is below the trajectory — which is to say, that it is behind. That is not an abuse of the regulation. It is what the regulation now says.

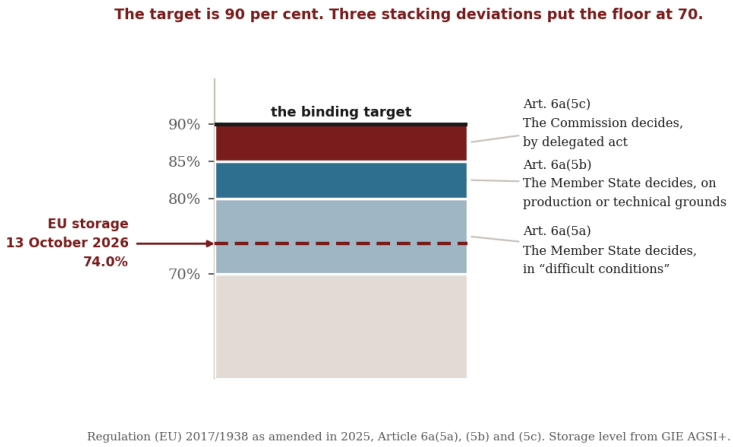


Figure 1. The binding target, the three deviations that stack beneath it, and the resulting floor. The dashed line is the EU aggregate storage level on 13 October 2026.

II

What was amended, and when

Regulation (EU) 2017/1938 was amended in 2025 by the act adopted as PE-CONS 27/25. The amendment did three things that matter here. It moved the moment at which the filling target must be met from a single date to a window. It made the intermediate filling trajectory indicative rather than binding. And it inserted a new series of paragraphs — Article 6a(5a) to (5f) — setting out deviations from the target and the procedure for using them.

The window matters less than it appears. The target must now be met "at any point in time between 1 October and 1 December each year". A Member State that reaches 90 per cent on 2 November has complied; so has one that reaches it on 29 November, after a month of heating demand. The earlier formulation — 90 per cent by 1 November — is the one still in general circulation, and it is the stricter of the two.

The trajectory matters more. Member States submit a filling trajectory with intermediate targets for February, May, July and September, based on the average filling rate of the preceding five years. Under the amended Article 6a(6) they “shall strive to follow” it. Article 6a(10) has the Commission inform the Gas Coordination Group of the extent to which each Member State meets “the indicative trajectory”. A benchmark one strives towards is not a benchmark one is held to, and the regulation says so in terms.

The three deviations, and how they stack

Article 6a(5a) provides that, “in the case of difficult conditions that limit the ability to ensure that the underground gas storages are filled in accordance with this Regulation, each Member State may decide to deviate from the filling target… by up to 10 percentage points”. The verb is the point: the Member State may decide. There is no application, no authorisation and no prior finding by anyone else.

Article 6a(5b) adds a further five points, again on the Member State’s own decision, where either its national gas production exceeds its average annual consumption over the preceding two years, or a single storage facility on its territory with technical capacity above 40 TWh has technical characteristics requiring “an exceptionally long injection period of more than 115 days”. This limb is narrow and objective, and it is qualified: it may be used only so long as it does not damage directly connected Member States’ ability to supply protected customers or the functioning of the internal gas market, and the Commission must assess the consequences and inform the Gas Coordination Group.

Article 6a(5c) adds the last five points, and these are the Commission’s. In the case of “persistent unfavourable market conditions”, and provided Union and Member State security of supply is not undermined, the Commission may by delegated act increase the deviation allowed under 5a for one filling season. The increase “shall not exceed an additional five percentage points”.

Ten plus five plus five is twenty. Ninety minus twenty is seventy. Of the twenty points, fifteen are decided by the Member State invoking them and five by the Commission; and the Commission’s five are an extension of the Member State’s own ten, not an independent instrument.

Two further deviations exist and are not counted here. Article 6a(5d) permits a deviation of up to 3.88 percentage points from the volume-based target in Article 6a(2), and Article 6a(5e) a deviation of up to 1.66 points from the average annual consumption volume in Article 6c(1) and (5). Both apply to quantities other than the percentage filling target and neither is added to the twenty points above. They are recorded because a reader checking the article will find them, and because they are governed by the same condition as 5a.

Fifteen of the twenty points of deviation are decided by the Member State invoking them.

The filling target	90 per cent, binding, met at any point between 1 October and 1 December	Art. 6a(1)(b)
The filling trajectory	Intermediate targets for February, May, July and September — indicative	Art. 6a(6), (7)
A 10-point deviation	The Member State decides, in “difficult conditions”	Art. 6a(5a)
A further 5 points	The Member State decides, on production or technical grounds	Art. 6a(5b)
A further 5 points	The Commission decides, by delegated act, for one filling season	Art. 6a(5c)
If a deviation is used	The Member State consults the Commission and provides justification	Art. 6a(5f)
If the target is missed	The Member State informs the Commission and the GCG, with reasons	Art. 6a(8)
If it was not allowed	The Commission issues a recommendation, “where appropriate”	Art. 6a(11)

Regulation (EU) 2017/1938 as amended in 2025. The “sufficiently deterrent sanctions and fines” the regulation requires are to be imposed on market participants, not on Member States. Two further deviations, under Article 6a(5d) and (5e), apply to the volume-based target and to the Article 6c consumption reference rather than to the percentage filling target, and are not counted in the twenty points above.

Figure 2. The provision chain in full: the target, the trajectory, the three deviations, and what follows from using one or from missing the target.

IV

The circularity in Recital 11

Everything in Article 6a(5a) turns on what “difficult conditions” means, and the operative article does not define it. Recital 11 does, by example. The conditions it lists are: indications of trading activities hindering cost-effective storage filling; low seasonal price spread; a high price environment; “storage levels below the trajectory at Member State level”; and unforeseen technical circumstances making injection difficult and costly.

Four of the five describe market or technical circumstances external to the Member State’s own performance. The fourth does not. It describes the Member State being behind.

The structure this produces is circular. A Member State that falls behind its filling trajectory has, by that fact, met a listed condition entitling it to decide on a ten-point deviation from the target that the trajectory exists to deliver. The shortfall supplies its own justification. No external circumstance need be shown, because the shortfall is the circumstance.

Two qualifications are owed. A recital is not an operative provision: it guides interpretation and the list is introduced by “such as”, so it is illustrative rather than exhaustive, in both directions. And Article 6a(5a) requires the condition to be one “that limit[s] the ability to ensure” the target is met, which is a substantive threshold a bare shortfall does not automatically clear. But it is the Member State that applies that threshold to itself, in the first instance and in every instance, and the only mandatory step that follows is consultation and justification under Article 6a(5f).

V

What follows from missing the target

This is the part of the regime least accurately described in public summaries. Under Article 6a(8), where a Member State fails to meet the filling target it “shall inform the Commission and the GCG without delay, providing reasons for the failure to meet the filling target and the measures taken”. It must also take effective measures to ensure security of supply — “while taking into consideration the price impact on the gas market”.

Under Article 6a(11), where there is a substantial and sustained deviation from the trajectory compromising the target, or a deviation from the target not permitted under 5a to 5e, the Commission “shall, where appropriate, after consulting the GCG and the Member States

concerned, issue a recommendation". A recommendation is not binding, and "where appropriate" is a discretion.

The regulation does require deterrent penalties, but not of Member States. Article 6a(5) obliges Member States to enforce storage obligations "upon market participants", "including by imposing sufficiently deterrent sanctions and fines on those market participants". The sanction sits one level below the actor whose decision determines whether the target is met. A Member State that invokes a fifteen-point deviation has not breached anything, and so there is nothing for a sanction to attach to.

None of this means the regime is empty. Infringement proceedings remain available for a genuine breach, the consultation duty in 5f gives the Commission early sight and the Gas Coordination Group a forum, and the no-harm proviso in 5b is a real constraint on the production and technical limb. The accurate statement is narrower and more useful than "the target has no teeth": within the twenty points, compliance is self-assessed and the consequence of being at seventy rather than ninety is a notification.

VI

Where storage actually stood

The amendment was adopted in a year in which the question stopped being theoretical. On 26 September 2026 the EU aggregate stood at 70.87 per cent, the thinnest late-September level in the fifteen-year AGSI+ record. By gas day 13 October it had reached 74.0 per cent — roughly nine points below the same day in 2025 and about fourteen below the 2017–2025 average.

The aggregate conceals the distribution that matters. Italy stood at 89.1 per cent and France at 87.4, both within striking distance of the unmodified target. Germany stood at 60.1 per cent and the Netherlands at 63.3 — both below the 70 per cent floor of the relaxed regime, and both holding the largest storage capacity in the Union.

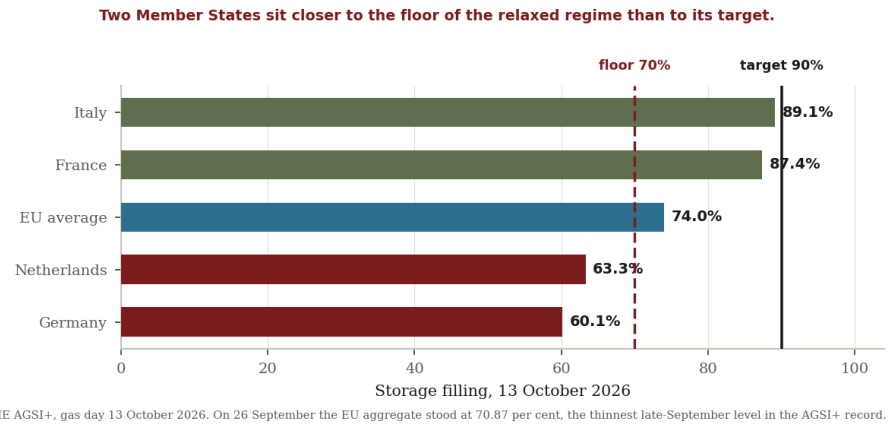


Figure 3. Storage filling on 13 October 2026, against the binding target and the floor of the relaxed regime. Germany and the Netherlands are the two largest storage holders in the Union.

The 2026 filling season is not yet closed and the compliance window runs to 1 December, so nothing here is a finding of non-compliance. What the distribution establishes is that the flexibility inserted in 2025 is not a theoretical reserve. In its first full season of application, the two Member States that hold the most storage were in the range where it becomes operative.

VII

The case against this reading

Three arguments cut the other way and the strongest of them is the Council's own.

The target has never needed to bite. The Council records that "since the 90% filling target was established, the EU has consistently exceeded it before the beginning of each heating

season”. On the record to date that is correct, and it is the best argument that the flexibility is a safety valve rather than a loophole. It is also an argument drawn entirely from a period in which prices and the seasonal spread made filling commercially rational. The 2026 season is the first in which that has been materially less true, and it is the first season in which the flexibility exists.

Rigidity was the real risk. A hard target on a hard date is a published instruction to buy, and sellers can price against it. Several Member States and a good deal of market analysis argued that the 2022 design transferred value to producers and traders at European expense. Softening the date into a window and the trajectory into a benchmark is a direct answer to that, and the low seasonal price spread named in Recital 11 is precisely the condition it addresses. On this reading the amendment buys flexibility at a known and accepted cost in headline stringency.

Storage is not the whole of security. Filling levels are one input among several: LNG import capacity, interconnection, demand reduction and the weather all bear on whether a winter is survivable. A Member State at 70 per cent with deep import capacity may be better placed than one at 90 per cent without it. This is true, and it is a reason not to read Figure 3 as a ranking of exposure. It is not a reason to treat the filling target as uninformative, since it remains the only one of those inputs that the Union has chosen to make binding.

The first argument is the one that could overturn this brief, and it is testable. If the Union closes the 2026 season above 90 per cent in aggregate with no Member State invoking Article 6a(5a), the flexibility will have been what its defenders say it is. The season closes on 1 December.

VIII

One state said the quiet part

Slovakia abstained on the adoption of the amending regulation and entered a statement in the Council minutes recording that the regulation “cannot by any means determine or exclude the source of gas supply”.

That statement is about something the regulation does not do, and it is accurate. The storage regime is volumetric and origin-blind: it requires that storage be filled, not that it be filled with gas of any particular provenance. Origin is governed by separate instruments. The statement is recorded here because it identifies, from inside the Council, the boundary of what a filling target can compel: the instrument constrains quantity, not provenance. Any assessment of dependency or of source diversification therefore requires a separate instrument and a separate metric. Storage adequacy and supply-source diversification are different questions, and this brief answers only the first.

ASSESSMENT

The European gas storage filling target is binding at 90 per cent and lawfully satisfiable at 70. Fifteen of the twenty points between those figures are decided by the Member State invoking them, on conditions it applies to itself; the remaining five are a Commission extension of the Member State's own deviation. The intermediate trajectory, which is the only in-season measure of whether a Member State is on course, is indicative.

One of the conditions listed as entitling a Member State to the first ten points is that its storage is below the trajectory. The shortfall is among its own justifications. The procedural consequence of using a deviation is consultation and justification; the consequence of missing the target outright is notification with reasons, and at most a non-binding Commission recommendation issued where appropriate. The deterrent sanctions the regulation requires are imposed on market participants, not on the Member State whose decision sets the level.

This is a defensible design and it was adopted for stated reasons, chief among them that a rigid target is a published instruction to buy. It is nonetheless a different instrument from the one described in public. The 2026 season is the first test: the Union entered October at its thinnest late-September level on record, and the two largest storage holders in the Union, Germany and the Netherlands, stood below the floor of the relaxed regime in mid-October with six weeks of the compliance window remaining.

RECOMMENDATION Treat the 90 per cent figure as a headline, not as a planning assumption. For any assessment of European winter resilience, the number that carries information is the one each Member State actually reaches within the 1 October to 1 December window, together with whether and on what ground any deviation under Article 6a(5a) to (5e) was invoked. Those invocations are consulted with the Commission and reported to the Gas Coordination Group; they are the single most informative disclosure of the 2026 season and should be tracked when the season closes.

FALSIFICATION

What would refute this analysis

	If this were established	The finding it would overturn
1	**No Member State invokes Article 6a(5a) in the 2026 season, and the Union closes above 90 per cent**	The central claim that the flexibility is operative rather than reserve. The brief would stand as a reading of the text and fail as a reading of the regime in practice.
2	**The Commission treats a bare trajectory shortfall as insufficient to constitute "difficult conditions", and says so**	The circularity finding in Section IV. The threshold in 5a would be doing the work the recital appears to remove.

	If this were established	The finding it would overturn
3	**An infringement proceeding is opened against a Member State for a filling shortfall within the twenty points**	The finding in Section V that within that range there is nothing for a sanction to attach to.
4	**Germany and the Netherlands reach 90 per cent before 1 December without invoking any deviation**	Not the legal analysis, but the weight placed on Figure 3. The distribution would be a seasonal lag rather than an indication that the flexibility is in range.
5	**A delegated act under Article 6a(5c) is adopted on criteria that constrain rather than extend Member State discretion**	The characterisation of the Commission's five points as an extension of the Member State's own ten.

LIMITS

What this brief does not establish

1. This is a reading of the adopted text and of published storage data. It is not an assessment of any Member State's intention, and no Member State is said here to have invoked or to intend to invoke any deviation.

2. The 2026 filling season was open at the date of writing. The compliance window runs to 1 December 2026. No statement here is a finding of non-compliance by any Member State.

3. The quotations from the regulation are taken from the text adopted as PE-CONS 27/25 as supplied to the house. Where that text amends Regulation (EU) 2017/1938, article numbering follows the amended regulation. The consolidated version has not been separately consulted.

4. Recital 11 is a recital. It informs the interpretation of Article 6a(5a) and does not of itself confer an entitlement. Section IV states this and the circularity finding should be read subject to it.

5. Articles 6a(5d) and (5e) are recorded but not analysed. They bear on the volume-based target and the Article 6c consumption reference, which are outside the scope of this brief.

6. The storage figures are from GIE AGSI+ as reported for the gas days stated. Aggregates and national figures are as published and have not been independently recalculated. The comparisons to 2025 and to the 2017–2025 average are approximate and are stated as such.

7. The brief does not assess whether 70, 90 or any other figure is the right target. It establishes what the regulation requires and who decides, and leaves the adequacy question open.

8. The Slovak statement is quoted from the Council statements addendum supplied to the house. No other Member State statement has been examined, and the absence of others is not evidence that none exist.

SOURCES

Primary documents

Document	Used for
PE-CONS 27/25	Regulation amending Regulation (EU) 2017/1938 as regards gas storage. All quotations of Article 6a(1), (5), (5a) to (5f), (6), (7), (8), (10) and (11) and of Recitals 5 and 11.
Regulation (EU) 2017/1938	The regulation amended. Article structure and the pre-existing filling target.
ST 11329/25 INIT and REV 1 ADD 1	Council adoption documents and the statements addendum, including the Slovak statement and the Council background note on filling performance to date.
GIE AGSI+	Storage filling levels for 26 September and 13 October 2026, EU aggregate and by Member State.
Commission Recommendation C(2025)1481	Referred to in Recital 10 on the implementation of the 2025 filling targets. Noted, not analysed.

SB-2026-15 · v1.2 FINAL · 28 October 2026 · Prepared by the Director of Strategic Analysis. Strategic read completed by the Chief Strategy Officer on v1.0, with one narrowing amendment to Section VIII carried into this version. Number and attribution audit completed by Ciceró on v1.1 and closed without condition. Figures 1 and 2 state the provision chain and carry counts that are load-bearing findings; they are not to be re-lettered or rounded in any design pass.