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COMMISSION OPINION

of 24.3.2023

under Regulation (EU) 2019/941, on risk-preparedness in the electricity sector and repealing Directive 2005/89/EC, on the Risk-preparedness Plan submitted by the Competent Authority of Malta to the European Commission.

Only the Maltese and English text is authentic

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1. PROCEDURE

Article 10 of Regulation (EU) 2019/941 of the European Parliament and of the Council of 5 June 2019 on risk-preparedness in the electricity sector and repealing Directive 2005/89/EC¹ (the "Regulation") requires the Competent Authority of each Member State to establish a Risk-Preparedness Plan ("RPP"). In accordance with Article 10(8) of the Regulation, the RPPs have to be updated every four years, unless circumstances require updates that are more frequent. The consultation between Competent Authorities and the Electricity Coordination Group provided for under Article 10(4) of the Regulation has to be carried out before the adoption of the RPP.

The RPPs (as well as its updates) need to be based on the regional electricity crisis scenarios identified by ENTSO-E² pursuant to Article 6 of the Regulation as well as the national electricity crisis scenarios that each Competent Authority has to identify before the adoption of the RPP pursuant to Article 7 of the Regulation. The electricity crisis scenarios must be identified in relation to system adequacy, system security and fuel security and considering, among others, extreme natural hazards, accidental hazards and consequential hazards, including the consequences of malicious attacks.

The Competent Authority of Malta, the Ministry for the Environment, Energy and Enterprise ("MEEE"), notified its draft RPP to the Electricity Coordination Group for the purpose of the consultation required by Article 10(4) of the Regulation on 21 June 2021. MEEE notified to the Commission on 17 August 2022 its final RPP.

After having assessed the RPP, in view of the criteria mentioned in Article 11 of the Regulation and the templates provided for in the Annex to the Regulation, and having consulted the Electricity Coordination Group between 22 August and 12 September 2022, the Commission has the following remarks on the RPP.

2. COMMISSION'S ASSESSMENT OF THE RISK-PREPAREDNESS PLAN

The RPP is quite comprehensive in the description of the national framework and measures. It describes in detail the roles and responsibilities, including the information flows. The RPP provides a detailed description of the different crisis levels, including the escalation and de-escalation criteria.

¹ OJ L 158, 14.6.2019, p. 1–21.

² European Network of Transmission System Operators for Electricity.

Nevertheless, the Commission considers that some elements of the RPP do not fully comply with the requirements of the Regulation.

2.1 Risk-Preparedness Plan (RPP)

2.1.1. Missing information on the electricity crisis scenarios

Pursuant to Article 7 of the Regulation, each competent authority has to identify the most relevant national electricity crisis scenarios on the basis of at least certain risks (rare and extreme natural hazards, accidental hazards and consequential hazards, including malicious attacks and fuel shortages). These scenarios have to be consistent with the regional electricity crisis scenarios identified by ENTSO-E pursuant to Article 6 of the Regulation. The national and regional electricity crisis scenarios are the basis on which the Competent Authority has to establish the RPP in accordance with Article 10(1) of the Regulation, and the RPP must include a summary of the electricity crisis scenarios defined for the Member State and the region, in accordance with Article 11(1)(a) of the Regulation and point 1 of the Annex thereto.

The RPP submitted by MEEE includes a short summary of the national electricity crisis. However, these descriptions are of very general nature. It is not possible to conclude from these descriptions what the concrete scenarios simulated for Malta are. For example, for the scenario named ‘Fuel shortages’, there are no details on the concrete simulations per type of fuel (gas, oil, etc), nor quantifications of the impact of the risk scenario (references are limited to possibilities without describing specific impacts).

The Commission considers that the RPP submitted by MEEE needs to be amended to further describe the national scenarios considered. This information on the national scenarios is necessary to assess the completeness and effectiveness of the preventive and mitigating measures contained in the RPP. Moreover, this information is also relevant for other Member States to understand the potential impacts and shared challenges that a number of these scenarios may pose.

The Commission also considers that a refined assessment of the crisis scenarios is particularly necessary following the dramatic changes in the EU security situation as a result of the invasion of Ukraine by Russia. Consequently, the Commission takes the view that the RPP submitted by MEEE needs to be updated in the light of these circumstances, including geopolitical risks, dependence on fuels and on other supply chains from third countries (including fuel-switching possibilities) and spill over effects from other sectors into electricity (e.g. increase in electricity demand for heating purposes in the absence of other fuels). As Europe is experiencing exceptional heatwaves, the definition of the crisis scenarios should also take into account the impact of water scarcity and temperature rise on electricity production (e.g. implications on cooling as warmer rivers could affect power outputs). The Commission reminds MEEE that Article 10(8) of the Regulation already requires updating the RPP more frequently than every 4 years where circumstances so warrant.

The Commission recommends that the description of the scenarios includes:

- A clear link between the national and regional scenarios, including the assumptions for its selection and/or rejection.
- A description of the scope, including the national and regional characterization of the hazard.
- A more detailed characterization of the selected scenario, including the cross-sector and cross-border interdependencies, initial condition of the system prior to the

initiating event, assets exposure and vulnerabilities (based on damage curves if available), and the time-horizon and assumptions applied.

- Account and timeline of events, including a more detailed description of initiating events and chain of events. The description should include the coping mechanisms and characterization of the response, including the applicable procedures and measures at national and regional level.
- Impacts on the electricity system and assets, including electricity flows and consequences. The assessment should include a quantitative analysis in terms of EENS³/LOLE⁴ estimates and/or other quantitative values, as well as possible spill over effects to other sectors, e.g. to the gas sector.
- Specifically for scenarios on cyber-risks, include a reference to a framework including minimum and advanced cybersecurity requirements, procedures to follow in case of an incident, a description of the roles and interactions between the competent authority and the cyber-specific actors, such as CSIRT⁵, CERT⁶ and cyber-specific authorities (considering the link between sectorial response and national level and EU cyber response), and the links with cyber specific legislation.
- Climate change and environment considerations, such as climate vulnerability and risks and environmental impacts, including with a view to design preventive measures against the climate and environmental risks identified in order to reduce exposure and vulnerability to the risks. This would include an assessment of the reduction or increase of GHG emissions and the environmental impacts resulting from prevention and mitigation measures included in the RPP.

Moreover, and given the current exceptional circumstances, the Commission recommends that MEEE accelerates any calendar for the mandatory tests on the effectiveness of the procedures developed in its RPP. These tests should be carried as soon as possible and with a focus on next winters. They should cover measures and communication and coordination protocols, in cooperation with neighbouring Member States. These tests should help improve the existing measures and the mechanisms for cooperation and communication, and identify additional measures.

2.1.2. Missing information on regional and bilateral measures for cooperation and assistance among Member States

Pursuant to Article 15 of the Regulation, Member States have to cooperate in a spirit of solidarity in order to prevent or manage crises. Where they have the technical ability, Member States have to offer each other assistance by means of regional measures (with Member States within their region) and bilateral measures (with Member States to which they are directly connected but do not belong to the same region). Such regional and bilateral measures must be described in the RPP in accordance with Articles 12 and 15 of the Regulation and point 3(2)(b) of the Annex thereto, as well as the national measures necessary to implement them pursuant Article 11(1)(j) of the Regulation.

³ Expected Energy Not-Served (EENS) as defined in Article 2(2)(e) of the methodology for identifying regional electricity crisis scenarios established in accordance with Article 5 of the Regulation.

⁴ Loss of Load Expectation (LOLE) as defined in Article 2(2)(g) of the methodology for identifying regional electricity crisis scenarios established in accordance with Article 5 of the Regulation.

⁵ Computer Security Incident Response Team.

⁶ Computer Emergency Response Team.

The RPP submitted by MEEE states that there is no formal agreement of cooperation with Italy but there is instead an active dialogue with Italy in order to sustain mutual support, cooperation and assistance in a spirit of solidarity. The RPP mentions the intention to initiate detailed bilateral discussions with Italy on procedures for undertaking annual or biannual reviews of emergency preparedness plans and ongoing discussions regarding a solidarity agreement for electricity with Italian authorities (bilateral agreements). However, there is no reference to concrete regional and bilateral measures agreed with the Member States that have the technical ability to provide each other assistance in accordance with Article 15.

The Commission considers that the Maltese RPP has to be amended to include the regional and bilateral measures required by the Regulation, including any necessary technical, legal and financial arrangements, as well as the national measures necessary to implement them.

2.1.3. Other missing items

The Regulation also requires that the RPP includes information on the future grid that will help to cope with the electricity crisis scenarios, pursuant to Article 11(1)(k) of the Regulation.

There is no information about mechanisms to inform the public about electricity crises in the Maltese RPP or future grid development that will help to cope with the consequences of the identified electricity crisis scenarios.

The Commission takes the view that the RPP submitted by MEEE has to be amended to include the missing information indicated above.

2.2 Other comments

Apart from the substantive remarks presented above, the Commission would like to draw the attention of MEEE, to some other elements of the submitted RPP, which do not raise legal concerns in terms of their compatibility with the elements mentioned in Article 13(2)(a) to (f) of the Regulation, but which may provide useful guidance to the Competent Authority for future amendments of the RPP.

- The Maltese RPP mentions existing inter-TSO Arrangements regarding the planning and operation of the availability and capacity of the interconnection between Malta and Italy. The RPP should include more detailed information on the details of such agreements.
- The RPP refers to some measures that could have an impact on greenhouse gas (GHG) emissions (e.g. availability of alternative back-up gasoil-fired generation as required, including appropriate fuel stock). The Commission recommends that the risk/impact on GHG emissions is quantified and assessed to determine the alignment of the RPP with the climate neutrality goal.

3. CONCLUSION

Based on the above assessment, and in view of Article 13(2)(c) of the Regulation, the Commission concludes that some elements of the RPP submitted by MEEE do not comply with certain provisions of this Regulation.

The Commission requests MEEE to amend the RPP taking duly into consideration all the concerns expressed by the Commission in the present opinion and notify the amended RPP to the Commission within three months of receipt of this opinion, pursuant to Article 13(3) of

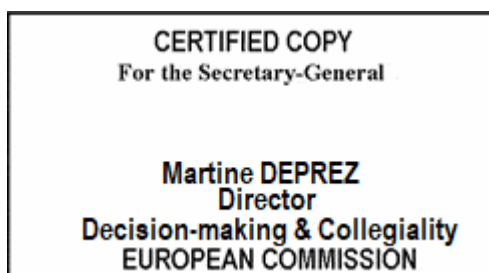
the Regulation. In view of the circumstances following Russia’s invasion of Ukraine, the Commission recommends to prioritise the focused update of the RPP described in section 2.1.1, the test on the effectiveness of the procedures developed in the RPP referred to in section 2.1.1, the missing information on regional and bilateral measures for cooperation and assistance among Member States described in section 2.1.2 and the detailed description of national electricity crisis scenarios described in section 2.1.1. The Commission urges MEEE to describe and assess the actions to reduce gas consumption in the power sector, as called upon in the Communication “Save gas for a safe winter”,⁷ while ensuring security of electricity supply. Furthermore, the Commission urges Malta to take into consideration the Council Recommendation on a Union-wide coordinated approach to strengthen the resilience of critical infrastructure, as adopted by the Council on 8 December 2022⁸, and, in particular, the results of the stress tests of critical infrastructure foreseen therein.

The Commission's assessment expressed in this opinion is without prejudice to any position it may take *vis-à-vis* Malta as regards the compatibility of national measures with EU law, including in the context of infringement proceedings and the enforcement of European Union competition rules, including State aid rules.

The Commission will publish this opinion. The Commission does not consider the information contained herein to be confidential, in particular as it relates to the RPP which is publicly available. MEEE is invited to inform the Commission within five working days following receipt of the opinion whether it considers that it contains commercially sensitive information, the confidentiality of which is to be preserved.

Done at Brussels, 24.3.2023

For the Commission
Kadri SIMSON
Member of the Commission



⁷ COM(2022) 360 final

⁸ OJ C 20, 20.1.2023, p. 1–11