



Brussels, 29.3.2023
C(2023) 703 final

COMMISSION OPINION

of 29.3.2023

**under Regulation (EU) No 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 Northern Ireland to the European Commission.**

Only the 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 Commission has to assess the RPP and issue an opinion recommending the review of the RPP where certain conditions are met, pursuant to article 13(2) of the Regulation.

The Regulation applies to the United Kingdom in respect of Northern Ireland, pursuant to the Protocol on Ireland/Northern Ireland of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community.²

The RPP (as well as its updates) need to be based on the regional electricity crisis scenarios identified by ENTSO-E³ 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 the United Kingdom on behalf of Northern Ireland, the Department for Business, Energy and Industrial Strategy ("BEIS"), notified its draft RPP to the Electricity Coordination Group for the purpose of the consultation required by Article 10(4) of the Regulation on 7 December 2021. BEIS notified to the Commission on 27 January 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

¹ OJ L 158, 14.6.2019, p. 1–21.

² OJ L 29, 31.1.2020, p. 7–187, see specifically the Protocol on Ireland/Northern Ireland, Article 9 and Annex 4.

³ European Network of Transmission System Operators for Electricity

consulted the Electricity Coordination Group between 2 February and 24 February 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. The RPP is quite comprehensive in the identification of applicable measures, differentiating between general measures and specific measures, as well as between industry response and executive and government response.

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 BEIS provides a short description of the national electricity crisis scenarios identified, including the national rating, likelihood and impact scale. However, these descriptions are of very general nature. It is not possible to conclude from these descriptions what the concrete scenarios simulated for Northern Ireland are. For example, for the scenario named 'Cyber-attack of grid connected ICT infrastructure', there are no details on the concrete simulations according to the type of attack, nor quantifications of the impact of the risk scenario (references are limited to possibilities without describing specific impacts, e.g. "it could cause outages on power lines and transformers and may cause loss of supply or possible overloading"). In particular for the scenario named "Fossil Fuel Shortage", the RPP states that it is one of the more critical scenarios for Northern Ireland and warrants further analysis.

The Commission considers that the RPP submitted by BEIS 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 EU Member States, notably within the same region, 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 invasion of Ukraine by Russia. Consequently, the Commission takes the view that the RPP submitted by BEIS needs to be updated in the light of these circumstances, focussing on 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). The Commission reminds BEIS that Article 10(8) of the Regulation already requires updating the RPP more frequently than every four 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.
- The characterization of the selected scenario, in particular 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 the 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 EENS⁴/LOLE⁵ 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, a reference to a framework with 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 CSIRT⁶, CERT⁷ and cyber-specific authorities, including during a crisis, 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.

2.1.2. *Missing definition of electricity crisis*

Article 2(9) of the Regulation defines an electricity crisis as a present or imminent situation in which there is a significant electricity shortage, as determined by the Member States and described in their RPPs, or in which it is impossible to supply electricity to consumers.

The RPP for Northern Ireland defines “civil emergency” as any natural disaster or other emergency which is or may be likely to disrupt electricity supplies, and mentions a possible

⁴ 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.

⁵ 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.

⁶ Computer Security Incident Response Team.

⁷ Computer Emergency Response Team.

declaration of a “NI energy emergency”, but does not contain a definition of an electricity crisis.

The Commission considers that the RPP submitted by BEIS needs to be amended to include a definition of an electricity crisis as required by the Regulation.

2.1.3. *Other missing items*

The Regulation also requires that:

- The RPP provides a framework for manual load shedding, specifying which categories of electricity users are entitled to receive special protection, in accordance with national law, and how the transmission system operators and distribution system operators are to decrease consumption, pursuant to Article 11(1)(h) of the Regulation as well as point 3(1)(d) of the Annex thereto.
- The RPP has to identify possible non-market measures to be implemented in electricity crises, specifying the triggers, conditions and procedures for their implementation, and indicating how they comply with the requirements laid down in Article 16 on the compliance with market rules as well as with regional and bilateral measures, pursuant to Article 11(1)(g) of the Regulation as well as point 3(1)(c) of the Annex thereto.
- Member States consult a certain number of relevant stakeholders before they establish their RPP pursuant to Article 10(1) of the Regulation. The RPP must describe the mechanism used and the results of the consultations carried out for the development of the RPP, in accordance with point 5 of the Annex to the Regulation.
- The competent authorities test periodically the effectiveness of the procedures developed in the RPPs for preventing electricity crises, with the involvement of relevant stakeholders and including the mechanisms to share information and cooperate, and carry out biennial simulations of electricity crises, pursuant to Article 12(3) of the Regulation as well as point 6 of the Annex thereto.

The RPP specifies for Northern Ireland that certain electricity users are entitled to receive special protection against disconnection according to the national legislation, without specifying how the transmission system operators and distribution system operators are to decrease consumption.

In addition to the non-market based measures to mitigate electricity crises described under point 3.1(c), the RPP submitted by BEIS states that the Secretary of State has powers to make orders and give directions controlling the production, supply, acquisition or use of electricity, where there is an actual or imminent emergency affecting electricity supplies. However, the RPP does not specify the triggers, conditions and procedures for their implementation, and how they comply with the requirements laid down in Article 16 of the Regulation on the compliance with market rules.

The RPP states that the plan has been produced in consultation with certain stakeholders for review and comment. However, the RPP submitted by BEIS does not describe the consultations with all the stakeholders required by the Regulation nor the results of such consultations.

The RPP states that regular testing is already carried out, including training programmes and black start and communication protocols tests. However, the RPP does not include any references to biennial regional real time response simulations of electricity crises, including the procedures agreed and the actors involved.

The Commission takes the view that the RPP submitted by BEIS has to be amended to include the missing information indicated above. Moreover, and given the current exceptional circumstances, the Commission recommends that BEIS 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 the winter 2022-2023. They should cover regional and national measures and communication and coordination protocols, in cooperation with neighbouring countries within the region. These tests should help improve the existing measures and the mechanisms for cooperation and communication, and identify additional national and regional measures (the latter preferably jointly with regional partners).

2.2 Other comments

Apart from the substantive remarks presented above, the Commission would like to draw the attention of BEIS, 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 RPP for Northern Ireland mentions a list of agreements, protocols and processes for inter-TSO cooperation. The RPP should include more information and describe in more detail these agreements, protocols and processes, and their interaction with other procedures and measures described in the RPP.
- The RPP for Northern Ireland describes the infrastructure development and the Northern Ireland flood risk management plan. Nevertheless, the RPP should include more information and describe in more detail the related and necessary plans for developing the future grid that will help to cope with the consequences of the identified electricity crisis scenarios.

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 BEIS do not comply with certain provisions of this Regulation.

The Commission requests BEIS 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 2.1.4, and the detailed description of national electricity crisis scenarios described in section 2.1.1.

The Commission's assessment expressed in this opinion is without prejudice to any position it may take vis-à-vis the United Kingdom in respect of Northern Ireland as regards the

compatibility of national measures with EU law, including in the context of infringement proceedings and the enforcement of EU 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. BEIS 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, 29.3.2023

For the Commission

Kadri SIMSON

Member of the Commission

