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**COMMISSION OPINION**

**of 3.11.2022**

**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 Italy to the European Commission.**

Only the Italian 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/EC<sup>1</sup> (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 RPP (as well as its updates) need to be based on the regional electricity crisis scenarios identified by ENTSO-E<sup>2</sup> 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 Italy, Directorate-General for security of energy supply and energy infrastructures of the Italian Ministry of Ecologic Transition ("DGISSSEG"), notified its draft RPP to the Electricity Coordination Group for the purpose of the consultation required by Article 10(4) of the Regulation on 16 April 2021. DGISSSEG notified to the Commission on 3 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 consulted the Electricity Coordination Group between 7 January and 31 January 2022, the Commission has the following remarks on the RPP.

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<sup>1</sup> OJ L 158, 14.6.2019, p. 1–21.

<sup>2</sup> European Network of Transmission System Operators for Electricity.

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

The RPP is in many aspects detailed and comprehensive in the description of the national framework and measures. It describes the activation of the electricity crises for each scenario, with a clear association between scenarios and national procedures and measures, and distinguishes clearly between early warning measures and electricity crisis measures. The RPP also includes a clear list of agents involved and their roles, including for cybersecurity.

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 DGISSEG includes a summary of the national electricity crisis scenarios identified for Italy and a short description of each scenario, largely based on the regional electricity crisis scenarios identified by ENTSO-E. However, these descriptions are of very general nature. It is not possible to conclude from these descriptions what the concrete scenarios simulated for Italy are. For example, for the scenario named 'Fossil fuel shortage', there are no details on the concrete simulations per type of fuel (gas, coal, etc), nor quantifications of the impact of the risk scenario (references are limited to possibilities without describing specific impacts, e.g. a prolonged supply limitation causes power shortage, without providing further details).

The Commission considers that the RPP submitted by DGISSEG 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, 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 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 DGISSEG 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). The

Commission reminds DGISSEG 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.
- The 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 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 EENS<sup>3</sup>/LOLE<sup>4</sup> 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 CSIRT<sup>5</sup>, CERT<sup>6</sup> 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 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

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<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> Computer Security Incident Response Team

<sup>6</sup> Computer Emergency Response Team

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.

The RPP submitted by DGISSEG includes a list of actions between system operators at regional level. 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 Italian 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. Missing information on mechanisms for cooperation and coordination*

Point 3(2)(c) of the Annex of the Regulation requires that the RPP shall describe the mechanisms in place for cooperation and for coordinating actions, before and during the electricity crisis, with other Member States outside of the region as well as with third countries within the relevant synchronous area.

The Italian RPP specifies that “involving Greece and Montenegro has been neglected in these scenarios due to their interconnection through HVDC cables”, which electrically decouple the two grids with respect to disturbances and any separation of the aforementioned interconnections does not significantly affect the Italian electricity system. Moreover, the Italian RPP does not mention cooperation and coordination mechanisms with Malta.

The Commission considers that the RPP submitted by DGISSEG has to be amended to describe the mechanisms in place for cooperation and coordination, before and during the electricity crisis, with other Member States outside of the region (e.g. Greece and Malta) as well as with third countries (e.g. Montenegro) within the relevant synchronous area. Even if Italy could be electrically decoupled with respect to disturbances or the interconnection may not significantly affect the Italian electricity system, the mechanisms in place for cooperation and coordination have to be described in the RPP as assistance could be provided by means of any interconnector (irrespective if they are HVDC or not). Furthermore, the assistance provided by Italy could be very relevant for neighbouring electricity systems to prevent or mitigate electricity crisis.

### *2.1.4. Missing information on some national procedures and measures*

Pursuant to Article 11(1)(e) of the Regulation and point 3(1)(a) of the Annex thereto, the RPP has to establish detailed procedures to be followed in electricity crises, including the corresponding schemes on information flows. Moreover, according to Article 11(1)(g) of the Regulation as well as point 3(1)(c) 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.

The Italian RPP includes a clear list of actors involved and describes the procedures to be followed by the transmission system operator in each scenario. However, the RPP does not describe procedures and corresponding schemes on information flows to be followed in cases of electricity crisis by other relevant actors mentioned in the list.

In addition, the Italian RPP includes a list of actions at national level for each scenario to be adopted before and during a crisis. Nevertheless, for the non-market-based measures, the plan does not specify the triggers, conditions and procedures for their implementation, or how they comply with the requirements laid down in Article 16 of the Regulation and with regional and bilateral measures adopted under Article 12 of the Regulation.

The Commission considers that the RPP submitted by DGISSEG has to be amended to include further information on the above-mentioned measures, including on procedures and corresponding on information flows, triggers and conditions for their application.

#### *2.1.5. Other missing items*

The Regulation also requires that:

- The RPP describes the mechanisms used to inform the public about electricity crises, pursuant to Article 11(1)(i) of the Regulation as well as point 3(1)(e) of the Annex thereto.
- 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.
- 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.

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

The RPP submitted by DGISSEG mentions the participation of the transmission system operator in some exercises at national level. However, the RPP does not specify a calendar for the biennial real time response simulations of electricity crisis, procedures agreed and the actors involved.

The Commission takes the view that the RPP submitted by DGISSEG has to be amended to include the missing information indicated above. Moreover, and given the current exceptional circumstances, the Commission recommends that DGISSEG 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 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 DGISSEG, 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 Italian RPP indicates procedures and measures for cooperation and coordination with neighbouring TSOs. Nevertheless, the RPP should include a more detailed description of these procedures and measures (e.g. description of the measures and agreements on the countertrading measures at the Northern borders or the emergency energy deliveries with neighbouring TSOs).
- The RPP submitted by DGISSEG refers to some critical users, but it is unclear whether such users would fall under the category of electricity users entitled to receive special protection against disconnection as referred to in Article 11(1)(h) of the Regulation. To improve clarity, the RPP should confirm whether such category of electricity users entitled to receive special protection against disconnection exists in Italy. Should this category exist, the Commission reminds DGISSEG that the RPP needs to specify such users pursuant to Article 11(1)(h) of the Regulation as well as point 3(1)(d) of the Annex thereto and the RPP would then need to be amended
- In order to improve clarity, the Italian RPP should indicate that the RPP is also applicable to the islands of Sicily and Sardinia, or explain otherwise.
- In order to facilitate the readability of the RPP and for completeness, the Italian RPP should include specific references to the applicable national regulatory framework without obscuring the text.
- While the RPP does not refer to preventive or mitigating measures that could have an impact on greenhouse gas (GHG) emissions (e.g. back-up fossil fuel generation or the deployment of additional fossil fuel capacity), the Commission reminds DGISSEG that such measures should be listed in the RPP if they existed. In such case, the Commission also 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 DGISSEG do not comply with certain provisions of this Regulation.

The Commission requests DGISSEG 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 2.1.5, 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. Furthermore, the Commission urges Italy to take into consideration the Council Recommendation, proposed by the European Commission on 18 October 2022, on a coordinated approach to strengthen the resilience of critical infrastructure in the EU, 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* Italy 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. DGISSEG 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, 3.11.2022

*For the Commission*  
*Kadri SIMSON*  
*Member of the Commission*