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**COMMISSION DECISION**

**of 6.5.2021**

**on the exemption of Resia Interconnector S.r.l. under Article 63 of Regulation  
(EU) 2019/943 for an electricity interconnector between Italy and Austria**

(Only the Italian and German texts are authentic)

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## on the exemption of Resia Interconnector S.r.l. under Article 63 of Regulation (EU) 2019/943 for an electricity interconnector between Italy and Austria

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity<sup>1</sup>, and in particular Article 63 thereof,

Whereas:

- (1) Article 63(1) of Regulation (EU) No 2019/943 provides the possibility for Member State authorities to exempt new electricity interconnectors from Article 19(2) and (3) of Regulation (EU) No 2019/943 and Articles 6 and 43, Article 59(7) and Article 60(1) of the Directive (EU) 2019/944<sup>2</sup> on common rules for the internal market for electricity provided certain conditions are fulfilled.
- (2) Article 63(7) of Regulation (EU) No 2019/943 provides for the Commission to be notified of the decision by the national authorities on an exemption request and its Article 63(8) provides the possibility for the Commission requesting the notifying bodies to amend or withdraw the decision to grant an exemption.

### 1. Procedure

- (3) On 16 March 2020, the company Resia Interconnector S.r.l. (hereinafter "the Applicant") submitted to the Italian Ministry of Economic Development (Ministero dello Sviluppo Economico - hereinafter, "MiSE") the exemption application for the Italian part of the interconnector project between Glorenza (Italy) and Nauders (Austria) (hereinafter "Passo Resia Interconnector").
- (4) On 2 June 2020, the Applicant informed the Austrian energy regulator Energie-Control Kommission (hereinafter: "E-Control") on the exemption application for the Passo Resia Interconnector for the purpose of coordination between the regulatory authorities pursuant to Article 63 (4) of Regulation (EU) No 2019/943.
- (5) According to the relevant Italian legislation Decree Law n° 93/2011, MiSE is the relevant body to grant such an exemption while the National Regulatory Authority in Italy (Autorità di Regolazione per Energia Reti e Ambiente – hereinafter, "ARERA"), is requested to issue a qualified opinion.

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<sup>1</sup> OJ L 158, 14.6.2019, p. 54–124.

<sup>2</sup> OJ L 158, 14.6.2019, p. 125–199.

- (6) On 12 November 2020, E-Control informed ARERA that the Applicant did not submit to E-Control an exemption request with regard to the part of the Passo Resia interconnector located in Austrian territory pursuant to Article 63 Regulation (EU) No 2019/943. E-Control considers that it has no jurisdiction to adopt its own national exemption decision, and agrees with the review and analysis conducted by ARERA with the aim of reaching an agreement within the meaning of Article 63(4) of Regulation (EU) No 2019/943.
- (7) On 17 November 2020, ARERA adopted its decision No 473/2020/R/EEL, setting out its opinion on the Passo Resia Interconnector application.
- (8) On 23 December 2020 and based on ARERA's opinion, MiSE adopted a decree granting an exemption to the Applicant from Article 19(2) and (3) of Regulation (EU) No 2019/943 and the provisions of Article 9 of Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity<sup>3</sup> (currently Article 43 of Directive (EU) No 2019/944), taking effect after the Commission's approval.
- (9) The exemption is granted for a power share of 150 MW (half of the nominal capacity of 300 MW), in respect of the Italian portion of the Passo Resia Interconnector, and under the conditions indicated in ARERA's opinion.
- (10) On 31 December 2020, the Commission was notified the decision of MiSE on the exemption request, in accordance with article 63 (7) of Regulation (EU) No 2019/943.
- (11) On 8 January 2021, the Commission published a notice on its website informing the public of the notifications and inviting third parties to send their observations within two weeks. The Commission did not receive any observations in response.
- (12) On 3 February 2021, the Commission addressed to MiSE a request for additional information, in order to allow for a full assessment and understanding of the exemption decree. The information was provided on 25 February 2021. The request triggered the extension of the deadline for the treatment of the case by a period of 50 working days starting from the day following receipt of the complete information and ending on 11 May 2021 as provided for in Article 63(8) of Regulation (EU) No 2019/943.

## **2. Description of the project and the requested exemption**

### Description of the project

- (13) The Passo Resia Interconnector between Italy and Austria is a 28 km alternating current (AC), 220 kV, underground interconnection with a nominal capacity of 300 MW in both directions that will connect the existing electrical substation in Glorenza, province of Bolzano in Italy, and the planned substation in Nauders, Tyrol in Austria.
- (14) In Austria, the interconnector will be owned by the Austrian Power Grid AG (hereinafter, "APG").
- (15) In Italy:
  - (a) the interconnector is currently owned by the company Resia Interconnector S.r.l. within Terna Group;

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<sup>3</sup> OJ L 211, 14.8.2009, p. 55–93.

- (b) according to the contractual framework between Terna and private investors (hereinafter, “the Assignees”), the company Resia Interconnector S.r.l. will be sold to the Assignees before the entry into commercial operation of the interconnector if the exemption is granted, on the basis of Article 32 of the Italian Law 99/09 as explained below.
- (16) Irrespective of some preparatory activities (notably land purchase, exploration and preparation), main construction works have not started yet. The interconnector is expected to be completed by the end of 2022 with the start of commercial operations within the first half of 2023.

#### Background on the project – Italian law 99/09

- (17) The exemption request has to be considered in relation to the legal framework set out by the Italian Law of 23 July 2009, n. 99 (Law 99/09).
- (18) Article 32 of the Italian Law 99/09 includes provisions on the planning, construction and operation by Terna of one or more upgrades to the international interconnection infrastructures in the form of “interconnectors”, as referred to in the Regulation (EC) No. 1228/2003, replaced by Regulation (EU) No 2019/943, in the presence of specific financing from third party investors.
- (19) Under this provision, Terna gave MiSE and ARERA notification of a list of possible infrastructures to be built and arranged a tender procedure for the selection of entities that intended to provide support in the funding of these infrastructures.
- (20) Article 32 of Law 99/09, limits the participation to tendering procedures to end customers (also grouped together in the form of consortia) which are:
- (a) holders of consumption units each with an available withdrawal capacity of not less than 10 MW, characterized by a utilization factor - on average in the previous three years - of not less than 40% (excluding the fifteen days with the lowest electricity withdrawal on an annual basis);
  - (b) committed to make their withdrawals interruptible upon the direct control of Terna in case of critical network conditions.
- (21) Under the legal framework described above, Terna identified a share of the Passo Resia Interconnector capacity as a possible project to be financed.
- (22) The shareholders of the interconnector (the Assignees) were selected during a tender procedure launched by Terna in 2009/2010 for an overall interconnection capacity between Italy and Austria equal to 500 MW, 150 MW of which refer to the Passo Resia Interconnector.
- (23) The selected Assignees are 72 industrial customers operating in the field of production and processing of steel, chemicals and paper. The Applicant states that most of them are not active in any branch of the electricity supply chain, while those few that perform some activity within the industry, mainly for self-consumption or optimization of supplies, have absolute negligible market shares both in the Italian and Austrian electricity markets.
- (24) In December 2013, a Memorandum of Understanding was signed by Terna and the trade associations of the Assignees (Federacciai, Assocarta, Federchimica, Aitec/Cemento and Assovetro) which defined the major mutual commitments. Under

this agreement, the Assignees were given the right to form an ad hoc company in order to finance the project.

- (25) To this end and with a view to making the transfer of the interconnector projects to the Assignees more efficient, on 16 July 2018 Terna established the company Resia Interconnector S.r.l. (sole shareholder company, currently subject to management and control by Terna), in order to present, upon a mandate by the Assignees, an exemption request for 150 MW of cross border capacity with reference to the Passo Resia Interconnector and develop the interconnector in the context of the provisions of Italian Law 99/09.

### Exemption request

- (26) According to the notification, the Applicant requests exemption from the provisions of:
- (a) Article 19(2) and 19(3) of Regulation (EU) No 2019/943, regarding the congestion income;
  - (b) Article 9 of Directive 2009/72/EC (currently Article 43 of Directive (EU) No 2019/944), regarding unbundling, if deemed necessary by the competent authority.
- (27) The exemption is requested with reference to half of the total interconnection capacity (150 MW of the nominal capacity of 300 MW) of the Passo Resia interconnection project and for a period of 10 years starting from the date of its commercial operation.
- (28) The exemption would therefore apply to the share of the congestion rents attributable to the Italian side only. Considering this, E-Control informed ARERA by letter of 12 November 2020 that it will not adopt its own national exemption decision, and agrees with the review and analysis conducted by ARERA.
- (29) No exemption is requested as regards third party access pursuant to Article 6 of Directive (EU) 2019/944, and the Commission understands that capacity allocation on the interconnector will need to follow the general regulatory framework without any preference for the assignees or other parties.

### **3. Relevant legal provisions**

- (30) Article 63(1) of Regulation (EU) No 2019/943 states:

*“1. New direct current interconnectors may, upon request, be exempted, for a limited period, from Article 19(2) and (3) of this Regulation and from Articles 6 and 43, Article 59(7) and Article 60(1) of Directive (EU) 2019/944 provided that the following conditions are met:*

- (a) the investment enhances competition in electricity supply;*
- (b) the level of risk attached to the investment is such that the investment would not take place unless an exemption is granted;*
- (c) the interconnector is owned by a natural or legal person which is separate, at least in terms of its legal form, from the system operators in whose systems that interconnector is to be built;*
- (d) charges are levied on users of that interconnector;*

*(e) since the partial market opening referred to in Article 19 of Directive 96/92/EC of the European Parliament and of the Council , no part of the capital or operating costs of the interconnector has been recovered from any component of charges made for the use of transmission or distribution systems linked by the interconnector; and*

*(f) an exemption would not be to the detriment of competition or the effective functioning of the internal market for electricity, or the efficient functioning of the regulated system to which the interconnector is linked.”*

(31) Article 63(2) of Regulation (EU) No 2019/943 states:

*“2. Paragraph 1 shall also apply, in exceptional cases, to alternating current interconnectors provided that the costs and risks of the investment in question are particularly high when compared with the costs and risks normally incurred when connecting two neighbouring national transmission systems by an alternating current interconnector.”*

#### **4. Description of the notified decision**

##### MiSE's decision

(32) Based on the ARERA's assessment described below, MiSE adopted a decree granting an exemption to the Applicant from Article 19(2) and (3) of Regulation (EU) No 2019/943 and the provisions of Article 9 of Directive 2009/72/EC (currently Article 43 of Directive (EU) No 2019/944) for a portion equal to 150 MW of the Passo Resia interconnection, under the conditions set out in Part 3 of ARERA's opinion, namely:

- (a) The exemption decision expires if either two years after the date the exemption decision is adopted by the Commission the construction of the interconnector has not started or the interconnector has not become operational after five years. However, the notified exemption decision also states that it continues to apply if the Commission decides, pursuant to Article 63(8) of Regulation (EU) No 2019/943, that any delay is due to major obstacles beyond the control of the Applicant.
- (b) In Italy the interconnector shall be operated by Terna based on a "Technical Operation contract" to be signed between the Applicant and Terna in accordance with Article 36(9) of the Italian Legislative Decree n. 93 of June 1<sup>st</sup> 2011, and to be approved by the Italian Authority.
- (c) The commercial arrangements for the transfer of revenues by Terna to the Applicant of the congestion rents corresponding to the Italian side, shall be defined in a commercial contract and shall be approved by the Italian Authority.
- (d) Prior to the entry into service of the interconnector, the share capital of the Applicant shall be transferred to the Assignees. Therefore, Terna shall not maintain any direct or indirect stake in the company. Any change in the composition of the Applicant's share capital, including any change in the share of the Assignees, shall be communicated to the Regulators for their evaluation.
- (e) If, directly or indirectly, an undertaking acquires joint or sole control over or merges with the Applicant, the latter must notify it to each of the relevant

national authorities concerned, which shall assess whether the conditions under which the exemption was granted are still met.

- (f) The ownership of the interconnector will be transferred to Terna after the expiry date of the exemption. The value of the asset shall not exceed the residual book value with re-evaluation and be determined on the basis of efficient costs.

#### ARERA's assessment

- (33) Regarding the eligibility of the request, ARERA considers that the interconnection project involve costs and risks higher than the costs and risks normally faced to create an alternating current interconnection due to the type of connection and its technical features and the location of the line. Therefore, according to Article 63(2) of Regulation (EU) No 2019/943, the request is eligible for an exemption under the conditions listed in Article 63 (1) thereof.
- (34) ARERA believes that the key variables for the investment risk are three: the price differentials between Italy North and Austria bidding zones, the Net Transfer Capacity (hereinafter, "NTC") and the investment costs:
  - (a) Taking into account the historical values for price differentials and the risks associated to the evaluation of the future values, ARERA thinks that the price differentials estimated by the Applicant (11.7 to 14.1 €/MWh and 12.2 to 16.5 €/MWh depending on the scenario) could be considered reasonable even if characterized by substantial uncertainties.
  - (b) According to ARERA, the maximum increase of NTC estimated by the Applicant (up to 300 MW in both directions) are not well described. Moreover, the historical NTC values vary significantly through the year and the future values of the NTC are linked to the implementation of Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management<sup>4</sup>, Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation<sup>5</sup> and Regulation (EU) No 2019/943, whose impact are yet to be checked on the field.
  - (c) The major share (above 90%) of the investment costs in the Italian side is represented by the underground cable supply and installation. ARERA concludes that the share and the amount of costs presented in the business plan are in line with the expected costs of projects with similar characteristics in terms of size, technology and route.
- (35) Regarding the fulfillment of conditions of Article 63(1)(a), "*the investment enhances competition in electricity supply*", ARERA considers that a new interconnector would likely increase competition levels by increasing cross-border capacity thus widening the potential supply sources. As the new capacity will be available to all market participants and the transmission capacity will be allocated according to the rules in place for cross border capacity allocation, the new capacity will also be available to Transmission system Operators ("TSOs") and balancing service providers. As a side-

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<sup>4</sup> OJ L 197, 25.7.2015, p. 24–72.

<sup>5</sup> OJ L 259, 27.9.2016, p. 42–68.

benefit, the interconnector will improve operational reliability of both systems and the diversification of electricity sources.

- (36) Regarding the fulfillment of conditions of Article 63(1)(b), “*the level of risk attached to the investment is such that the investment would not take place unless an exemption is granted*”, the Applicant declared that if the exemption is not granted, the interconnector would not be financed by the Assignees, and the Applicant would be forced to renounce financing the project, which will negatively affect the realization of the Passo Resia Interconnector.
- (37) Regarding the fulfillment of conditions of Article 63(1)(c), “the interconnector is owned by a natural or legal person which is separate, at least in terms of its legal form, from the system operators in whose systems that interconnector is to be built”, ARERA considers that the information provided by the Applicant prove that the Assignees are independent (as regard to both their legal form and ownership structure) from the TSOs, Terna and APG.
- (38) Regarding the fulfillment of conditions of Article 63(1)(d), “*charges are levied on users of that interconnector*”, ARERA confirms that the interconnector capacity will be allocated according to the ordinary rules applicable at European level on cross-border capacity allocation. Therefore, users will pay only for the value of the capacity determined in accordance with the EU framework and the specific market timeframe (long term, day ahead, intraday and balancing). MISE confirmed in its answer to the Commission questions on 25 February 2021 that it considers the investment required to realize the project as particularly costly and risky in comparison to other alternating current connections, especially in consideration of the type of connection and its technical features and the location of the line. MISE notably considers that underground cable interconnections such as the Resia Interconnector have greater unitary costs (€/MW) compared to overhead interconnection solutions and that on the Austria – Italy border an exemption is already in place for another interconnector having lower investment costs and comparable risk profiles.
- (39) Regarding the fulfillment of conditions of Article 63(e), “since the partial market opening referred to in Article 19 of Directive 96/92/EC of the European Parliament and of the Council, no part of the capital or operating costs of the interconnector has been recovered from any component of charges made for the use of transmission or distribution systems linked by the interconnector”, the Applicant declared that costs paid by the Applicant prior to transfer to the Assignees will be repaid to Terna by the Assignees, that no part of the costs sustained by the Assignees through the Applicant will be recovered by national transmission or distribution tariffs, and that the Assignees’ revenues will be linked solely to congestion revenues originating from the line. ARERA will assure this compliance.
- (40) Regarding the fulfillment of conditions of Article 63(1)(f), “an exemption would not be to the detriment of competition or the effective functioning of the internal market for electricity, or the efficient functioning of the regulated system to which the interconnector is linked”, ARERA states that the realization of the interconnector does not seem detrimental to the proper market functioning. As explained before, the new capacity will be available to all market participants as from the beginning of operation according to European regulation. In addition, the interconnector will be operated under the direct responsibility of the Italian TSO Terna, therefore the Assignees (which are the ultimate beneficiaries of the exemption) will not have any role in the management and allocation of the interconnector capacity. ARERA will verify that the

Commercial and Technical Operation contracts contain adequate measures ensuring that the risk of access to commercially sensitive information is avoided.

- (41) In light of the foregoing, ARERA is of the opinion that it is appropriate to grant the exemption in the terms set out in paragraph 3.3 of the opinion, and in particular that:
- (a) the request for exemption from Article 19 (2) and (3) of Regulation (EU) No 2019/943 must be granted; and
  - (b) the exemption from Article 9 of Directive 2009/72/EC (currently Article 43 of Directive (EU) No 2019/944) must also be granted on the basis of European legislation;
- (42) According to ARERA, E-Control, in agreement with the Authority, found that the exemption request described above, which is geographically limited to Italian territory and only to the rules on congestion income management and ownership unbundling, has no effect on the public transmission network in Austria. On that assumption, Resia did not apply for an exemption in respect of the part of the project located on Austrian territory. E-Control formally inform ARERA that it does not oppose to the analysis carried out by the Authority, thus expressing the agreement of the regulatory authorities concerned within the meaning of Article 63 (4) of Regulation (EU) 2019/943.

## **5 Assessment by the Commission**

- (43) The Commission underlines that the requirements of Article 63(1) of Regulation (EU) No 2019/943 have to be fully complied with, and that the compliance with the conditions shall be cumulative.
- (44) The Commission shares the view from MiSE regarding the fulfilment of Article 63(1)(a), *“the investment enhances competition in electricity supply”*. The Passo Resia Interconnector is likely to enhance competition since the new capacity would be available to all market participants and would be allocated according to the EU rules for cross-border capacity allocation. In addition, none of the Assignees of the interconnector has so far a significant presence in the electricity markets of both Italy and Austria. Therefore, the Commission considers that this requirement is fulfilled.
- (45) Regarding Article 63(1)(b), *“the level of risk attached to the investment is such that the investment would not take place unless an exemption is granted”*, it is important to underline that the project has not started yet and that the project was planned from the beginning as a fully private project. The Commission acknowledge the risks associated to the project, in particular regarding NTC values and energy prices. The Commission shares the view of ARERA that granting the exemption to the Applicant could mitigate the risks mentioned by the Applicants. According to the request, if the exemption is not granted the interconnector would not be financed by the Assignees and the Applicant would be forced to renounce financing the project. Based on the information provided in the technical report accompanying the exemption request, the Commission takes the view that the rate of return on the investment stays reasonable, even under the most favorable scenario. Thus, based on the available information, there is no need to reduce the scope of the exemption, as it does not appear to go beyond what is needed for the project to be realized. Although the Austrian portion of the infrastructure is a public initiative, the final investment decision relies on certain conditions, including the obtainment of the exemption for the Italian part of the link, which means that without the exemption the investment would not take place.

Therefore, the Commission considers that the requirement under Article 63 (1) (b) can be deemed fulfilled.

- (46) Regarding Article 63(1)(c), “the interconnector is owned by a natural or legal person which is separate, at least in terms of its legal form, from the system operators in whose systems that interconnector is to be built”, the exemption is requested by Resia Interconnector S.r.l. for the benefit of the Assignees, who are a group of industrial companies. According to the information received, all of them are legally independent from Terna and AGP, the Italian and Austrian system operators, as regard to both their legal form and ownership structure. Thus, this requirement can be considered fulfilled.
- (47) The capacity of the Interconnector will be allocated through ordinary Union law rules on cross border capacity allocation resulting from the network codes. The users will therefore pay the value of the capacity determined in accordance with explicit and implicit auctions used to allocate the capacity. Therefore, the requirement in Article 63(1)(d), “*charges are levied on users of that interconnector*” can be considered to be fulfilled.
- (48) Article 63(1)(e) states that, “since the partial market opening referred to in Article 19 of Directive 96/92/EC of the European Parliament and of the Council , no part of the capital or operating costs of the interconnector has been recovered from any component of charges made for the use of transmission or distribution systems linked by the interconnector”. According to the information received, as confirmed in the answers by MiSE to the Commission questions, no part of the costs sustained by the Assignees through the Applicant will be recovered by national transmission or distribution tariffs. Moreover, any costs incurred by the Applicants before its transfer to the Assignees will be refunded to Terna by the Assignees in accordance to the mandate contracts. Therefore, the requirement under Article 63(1)(e) can be deemed fulfilled.
- (49) As required in Article 63(1)(f), “an exemption would not be to the detriment of competition or the effective functioning of the internal market for electricity, or the efficient functioning of the regulated system to which the interconnector is linked”. To the knowledge of the Commission, the Assignees will not have any role in the allocation of the interconnector capacity, which will be done following standard EU rules, and the exemption will not hinder the overall optimization of the energy network nor affect the availability of the new capacity. In addition, as ARERA confirmed, there will not be any material risk of access by the Assignees to any commercially sensitive information on capacity allocation and capacity usage by market players, which will be ensured in the Commercial and Technical Operation contracts. The interconnection is expected not to change the current competition situation, thus, this criterion can be considered complied with.
- (50) As recently set out in case T-883/16<sup>6</sup>, the General Court concludes that the principle of energy solidarity entails a general obligation on the part of the European Union and the Member States, in the exercise of their respective competences, to take into account the interests of the other stakeholders. Notably, Member States shall endeavor, in the exercise of their powers in the field of energy policy, to avoid adopting measures likely to affect the interests of the EU and the Member States as regards security of supply, its economic and political viability, the diversification of supply or

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<sup>6</sup> Judgment of the General Court of 10 September 2019 in Case T-883/16 Poland v European Commission, points 72-73.

of sources of supply, and to do so to take account of their interdependence and de facto solidarity.

- (51) In this regard, MiSE states that the interconnector, as a project of pan-European interest and part of the Ten Year Network Development Plan of ENTSO for Electricity, is positively assessed as an infrastructure that meets the main European targets of security of supply, market integration and sustainability. MiSE points out that, the new project will bring a positive effect not only to the newly interconnected countries but also at European level increasing the so-called Socio-Economic Welfare by around €30 million per year.
- (52) E-control as the competent authority in the most directly affected Member State besides Italy has agreed with the draft exemption decision.
- (53) Further, the European Commission has given the possibility to all interested stakeholders, including Member States, to comment on the requested exemption. No Member State has commented, and no stakeholder has argued that the exemption shall not be granted.
- (54) There is no indication that the planned project would negatively impact the security of supply and the economic or political viability of the EU or Member States. According to the Ten Year Network Development Plan of ENTSO for Electricity the project contributes to security of supply the integration of Renewables energies as well as reduces the price spread between the connected market areas.<sup>7</sup> These objectives are also Union policy objectives and generally coherent with the national policy objectives of Member States.
- (55) Based on the above, the Commission considers the requirements set out by the General Court on the basis of Article 194 of the Treaty on the Functioning of the European Union to be met. However, the Commission recommends that MiSE explicitly makes a reference to the principle of solidarity in its final decision and better clarifies how its assessment complies with this principle.

#### **4 Conclusion**

- (56) The Commission takes the view that, based on the information received, the request for exemption fulfils all the requirements of Article 63 of Regulation (EU) 2019/943 and that an exemption can be granted to the Passo Resia Interconnector from Article 19(2) and 19(3) of Regulation (EU) No 2019/943 and Article 9 of Directive 2009/72/EC (currently Article 43 of Directive (EU) No 2019/944).

HAS ADOPTED THIS DECISION:

#### *Article 1*

Pursuant to Article 63 of Regulation (EU) No 2019/943, the European Commission agrees to the exemption decision notified by the Italian Ministero dello Sviluppo Economico as regards the request for an exemption of the company Resia Interconnector S.r.l. on the Italian part of the interconnector project between Glorenza (Italy) and Nauders (Austria).

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<sup>7</sup> <https://tyndp.entsoe.eu/tyndp2018/projects/projects/26>

*Article 2*

In line with Article 63(8) of Regulation (EU) 2019/943, the Commission's approval of the Exemption Decisions shall expire two years after the date of adoption of the present Decision in the event that construction of the interconnector has not started by that date and five years after the date of adoption of the present Decision if the interconnector has not become operational by that date, unless the Commission decides that the delay is due to major obstacles beyond the control of Resia Interconnector S.r.l.

*Article 3*

This Decision is addressed to the Ministero della Transizione Ecologica, former Ministero dello Sviluppo Economico, and Energie-Control Austria.

Done at Brussels, 6.5.2021

*For the Commission  
Kadri SIMSON  
Member of the Commission*