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COMMISSION OPINION

of 19.10.2022

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 Bulgaria to the European Commission.

Only the Bulgarian 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 RPP (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 Bulgaria, the Minister of Energy ("ME"), did not notify its draft RPP to the Electricity Coordination Group for the purpose of the consultation required by Article 10(4) of the Regulation. On 18 February 2022, the Commission launched an infringement against Bulgaria for not having notified its draft and final risk-preparedness plans, in accordance with Article 10(4) and Article 10(5) of the Regulation. ME notified to the Commission on 23 May 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 23 May and 14 June 2022, the Commission has the following remarks on the RPP.

¹ OJ L 158, 14.6.2019, p. 1–21.

² European Network of Transmission System Operators for Electricity.

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 contains a detailed description of the emergency and restoration plans and a clear description of the preventive and preparatory measures applicable in each national electricity crisis scenario identified.

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 ME identifies and briefly describes the most relevant national electricity crisis scenarios, including relevant details on the scenarios grouped under the “natural disaster and extreme weather conditions” risk group. However, these descriptions are of very general nature. It is not possible to conclude from these descriptions what the concrete scenarios simulated for Bulgaria 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. the scenario could have high cross-border impact, without providing further details).

The Commission considers that the RPP submitted by ME needs to be amended to further describe all 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 ME 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 ME 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 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.
- Diversification plans for third country nuclear fuel supply, including timing of designing, licensing and use of alternative fuel design. The assessment should include qualitative analysis of potential alternative suppliers.
- Climate change considerations, such as climate vulnerability and risks, including with a view to design preventive measures against the climate risks identified with a view to reducing exposure and vulnerability to the risks.

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 Expected Energy Not-Served (EENS) as defined in Article 2(1)(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(1)(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.

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 ME describes the bilateral operational agreements among Transmission System Operators (TSOs). The Plan also refers to an on-going process for a mutual emergency energy supply contract between the TSOs of Greece and Bulgaria to establish the conditions and rules under which the parties will provide mutual energy assistance in emergencies, but there is no reference to concrete regional and bilateral measures agreed as a result of such collaboration. Absent further information, it is unclear whether such agreements would meet the requirements for cooperation and assistance described in Article 15 of the Regulation. Consequently, on its own, it could fall short of the requirements of Article 15 of the Regulation, that require cooperation and assistance for the ultimate purpose of protecting public safety and personal security, going thus beyond the typically technical requirements of inter-operator agreements.

The Commission considers that the Bulgarian 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 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 State and described in their RPPs, or in which it is impossible to supply electricity to consumers.

The Bulgarian RPP includes a general definition of crisis for Information-communication and technological (ICT) services under point 1.1.1, but it does not contain a definition of electricity crisis.

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

2.1.4. Other missing items

The Regulation also requires that:

- The RPP describe the region to which the Member State belongs (Annex to the Regulation) and which serves as a basis, among others, for the cooperation and assistance among Member States. Such region is defined by Article 2(1)(16) of the Regulation as a group of Member States whose TSOs share the same regional coordination centre and, until such centres are established, regions refer either to a Member State or to a group of Member States located in the same synchronous area, pursuant to Article 22 of the Regulation.
- The competent authorities describe in the RPP the national measures designed to prevent or prepare for the risks identified in the national and regional electricity crisis scenarios, pursuant to Article 11(1)(c) of the Regulation as well as point 3(1)(b) of the Annex thereto. In addition, 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. Furthermore, the RPP has to describe the agreed mechanisms for cooperation within the region and with other Member States outside of the region as well as with

third countries within the relevant synchronous area, pursuant to Point 3(2)(a) and Point 3(2)(c) of the Annex of the Regulation.

- 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 Bulgarian RPP mentions the Regional Group Continental Europe, the Black Sea region and the neighbouring countries. Nevertheless, the definition of region for the purpose of implementing the Regulation needs to be clarified.

The Bulgarian RPP describes the System Defence Plan and the System Restoration plan designed by the TSO under Regulation (EU) 2017/2196 establishing a network code on electricity emergency and restoration. However, there is no information on other measures to prevent or prepare for the risks identified in the national and regional electricity crisis scenarios, nor a description of mechanisms for cooperation and for coordinating actions within the region and with other Member States outside of the region as well as with third countries within the relevant synchronous area. Furthermore, the RPP contains under point 3.1.4 some procedures and information flows by the SCADA systems, but does not describe the detailed procedures to be followed in electricity crises by the different entities and the corresponding schemes on information flows.

The RPP submitted by ME includes the list of entities consulted. However, the RPP does not describe the consultations with all the stakeholders required by the Regulation nor the results of such consultations.

The Bulgarian RPP states that the TSO conducts training for dispatcher, in accordance with the requirements of Regulation (EU) 2017/1485 establishing a guideline on electricity transmission system operation. 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 ME has to be amended to include the missing information indicated above. Moreover, and given the current exceptional circumstances, the Commission recommends that ME 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 the ME, 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 submitted by ME describes, as a preventive and preparatory measure, the network development plans, which helps achieving strategic goals and to identify potential adequacy gaps that could jeopardize security of supply. Nevertheless, the RPP should describe in more detail how the future grid development will help to cope with the consequences of the identified electricity crisis scenarios.
- 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 ME 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.
- The RPP notified by ME should identify and include a link to all the applicable national regulatory framework mentioned in the RPP (e.g. Ordinance No.3 on the design of electrical installations and power lines or Ordinance No. 11 for fuel reserves in case of complete interruption of the supply of fuels).

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 ME do not comply with certain provisions of this Regulation.

The Commission requests the ME 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, 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 ME 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 Bulgaria 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* Bulgaria as regards the compatibility of national measures with EU law,

⁷ COM(2022) 360 final.

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. ME 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, 19.10.2022

For the Commission
Kadri SIMSON
Member of the Commission