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COMMISSION OPINION

of 12.12.2022

pursuant to Article 20(7) of Regulation (EC) No 2019/943 on the results of the Monitoring reports submitted from Belgium, Poland, Ireland and Lithuania

(Only Dutch, English, French, Irish, Lithuanian and Polish versions are authentic)

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1. PROCEDURE

Following Article 20(3) of Regulation (EC) No 2019/943 (hereafter "Electricity Regulation")[1], Member States with identified adequacy concerns develop an implementation plan, in which they set out how they intend to address the root causes of their adequacy problem with market reforms ("Market Reform Plans").

The submission of a Market Reform Plan is followed by a review by the Commission as referred to in Article 20(5) of the Electricity Regulation, being a legal condition for the approval of any national capacity mechanism under Article 21(5) of the Electricity Regulation.

Article 20(6) of the Electricity Regulation requires all Member States with identified adequacy concerns to monitor the application of their implementation plans and to publish the results of the monitoring in an annual report ("Monitoring Report") that shall be submitted to the Commission. In accordance with Article 20(6) of the Electricity Regulation, the Commission received for the first time the Monitoring Reports (hereafter, Monitoring Reports I) from Belgium[2], Poland[3], Ireland[4] and Lithuania[5].

Pursuant to Article 20(7) of the Electricity Regulation, the Commission is required to issue an opinion on whether the implementation plans have been sufficiently implemented and whether the resource adequacy concern has been resolved.

2. DESCRIPTION OF THE MONITORING REPORTS

Article 20 (6) of the Electricity Regulation sets out that the Member States shall monitor the application of their implementation plans and shall publish the Monitoring Report results in

1 Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (OJ L 158, 14.6.2019, p. 54).

2 Belgium submitted to the Commission its Monitoring Report I on July 2021, which is publicly available at the following link: https://economie.fgov.be/sites/default/files/Files/Energy/CRM-Monitoring-Report-Belgian-electricity-market-Implementation-plan-2021.pdf

3 Poland submitted to the Commission its Monitoring Report I on October 2021, which is publicly available at the following link: https://www.gov.pl/web/klimat/sprawozdanie-z-realizacji-planu-wdrazania-reform-rynku-energii-elektrycznej-przyjete-przez-kse

4 Ireland submitted to the Commission its Monitoring Report I on February 2022, which is publicly available at the following link: https://www.gov.ie/en/publication/c1028-implementation-plan-for-ireland-to-meet-the-requirements-of-the-recast-electricity-market-regulation/

5 Lithuania submitted to the Commission its Monitoring Report I on January 2022, which is publicly available at the following link: https://enmin.lrv.lt/lt/veiklos-sritys-3/elektra/pajegumu-uztikrinimo-mechanizmas

an annual report. The Monitoring Report shall address the progress of the measures that are set out in their Market Reform Plans. Those are, as Article 20(3) of the Electricity Regulation mentions, seven specific groups of measures, namely:

(a) removing regulatory distortions;

(b) eliminating wholesale price restrictions (“caps”);

(c) making sure that the value of reserves in the system is appropriately reflected in prices;

(d) increasing interconnection and internal grid capacity;

(e) enabling self-generation, storage, demand-side measures and energy efficiency;

(f) ensuring cost-efficient and market-based procurement of balancing and ancillary services; and

(g) removing regulated prices where required by Article 5 of Directive (EU) 2019/944 (hereinafter ‘Electricity Directive’)[6].

2.1. BELGIUM

In its Monitoring Report I, Belgium confirms the outlook on resource adequacy, based on a new adequacy and flexibility study[7] published in June 2021. Belgium reports that on the one side new domestic capacity is needed due to the nuclear exit, and on the other side current markets do not provide sufficient incentives to invest in firm capacity, requiring the implementation of a capacity mechanism (hereafter, CM).

In its Monitoring Report I, Belgium reports on the progress in the implementation of the following measures, as originally proposed in its Market Reform Plan[8].

1. General wholesale price conditions

As stated in the Belgian Market Reform Plan, there are no price caps for day-ahead and intraday markets in Belgium other than the harmonised maximum and minimum clearing prices for single day-ahead and intraday coupling in accordance with Articles 41(1) and 54(1) of Commission Regulation (EU) 2015/12223 (hereafter ‘CACM regulation’). Hence, no updates were given in the Monitoring Report I.

2. Balancing market

Belgium committed in its Market Reform Plan to a series of reforms in respect of frequency-related ancillary services. In its Monitoring report I, Belgium indicated that the reforms had been implemented as announced:

- Frequency Containment Reserves (hereafter ‘FCR’) is open to all technologies and all players. Tendering is taking place on a daily basis and at regional level since July 2020.

[6] Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU, 14.6.2019, OJ, L 158, p.125.

[7] Elia, 2019, *Adequacy and flexibility study for Belgium 2020-2030*, available at: https://economie.fgov.be/sites/default/files/Files/Energy/Adequacy-and-flexibility-study-for-Belgium-2020-2030-Elia.pdf

[8] https://energy.ec.europa.eu/system/files/2020-05/adopted_opinion_be_en_0_1.pdf

- Frequency Restoration Reserve with automatic activation (hereafter ‘aFRR’) is open to all technologies and all players since September 2020. Tendering takes place on a daily basis as well.
- Frequency Restoration Reserves with manual activation (hereafter ‘mFRR’) is open to all technologies and all players. Sizing and tendering are taking place on a daily basis. Marginal pricing for activated balancing energy is enabled since February 2020.
- The changes applied to improving balancing publications were delivered within the planned timeline, in particular the development of an IT tool for real time communication with (registered) Balance Responsible Parties (hereafter ‘BRPs’)

In terms of participation in EU projects, Belgium committed in its Market Reform Plan to join the EU balancing platforms for mFRR and aFRR according to Articles 20 and 21 of the Commission Regulation (EU) 2017/2195 (hereafter ‘Balancing Guideline’)[9] by 2022. In its Monitoring report I, Belgium indicates there has been no change in planning.

3. Demand side response

Belgium indicates in its Market Reform Plan that the deployment of smart meters is a competence of the Regions in Belgium in line with Articles 19 to 22 of the Electricity Directive. According to its final Market Reform Plan, in the Walloon Region and Brussels-Capital Region, complete or near-complete coverage is not expected until after 2030. Regarding Flanders, whereas in its final Market Reform Plan, Belgium committed to a full roll-out of smart meters by 2034, Belgium indicated in its Monitoring report I that Flanders decided to speed up the roll-out of smart meters, aiming for a full roll-out by 1 July 2029 and an intermediate target of replacing 80% of all energy meters in Flemish households by the end of 2024.

4. Retail markets

As stated in its Market Reform Plan, Belgium applies public interventions in the price setting for the supply of electricity to energy vulnerable household customers. In doing so, it commits to comply with Article 5 of the Electricity Directive regarding market-based supply prices. In its Monitoring Report I, it signals that since January 2021, it has introduced reforms to the system to take into account market developments and to address supplier concerns. As such, suppliers are allowed to receive the social tariff plus the reimbursement of the cost resulting from the application of social tariffs, in order to contain the hedging costs for suppliers.

5. Interconnection

Belgium committed in its Market Reform Plan to several ongoing projects[10] to improve its interconnections with other Member States and internal grid capacity. In its Monitoring report I, Belgium signals that the Belgian Transmission System Operator (hereafter ‘TSO’) is investigating a new hybrid system between Belgium and Denmark, with the objective to plan a possible interconnection with an energy hub in the Danish economic zone in the North Sea.

Belgium committed in its Market Reform Plan to make more capacity available for cross-border exchanges. As of April 2018, at least 20% was made available to trade (“minRAM 20%” rule), and as of April 2020, more capacity is made available thanks to the implementation of Article 16(8) of the Electricity Regulation (the minimum “70% rule”,

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[9] Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing, OJ L 312, 28.11.2017, p. 6–53.

[10] ALEGro, NEMO and BRABO

adapted at national level based on the approved derogation). No specific action was signalled in the context of the Monitoring report I.

Belgium reports in its Monitoring report I that competing developments at EU level have caused a delay of the Core Flow-Based Market Coupling, whose go-live dates were expected by 1 December 2020 for day ahead and by 1 December 2021 for intra-day. Belgium has set a new target for go-live dates of the Core Flow-Based Market Coupling for 1 February 2022 and 1 February 2023[11].

2.2. POLAND

As described in the Polish Monitoring Report I, Poland is implementing the electricity market reforms adopted in the Market Reform Plan[12] of May 2020.

1. General wholesale price conditions

Poland signals in its Monitoring Report I that wholesale market reforms committed under its Market Reform Plan have been implemented according to schedule. Poland indicated in its final Market Reform Plan that it does not have price caps other than applying harmonised maximum and minimum clearing prices for single day-ahead and intraday coupling in accordance with Article 41(1) and 54(1) of Commission Regulation (EU) 2015/1222[13] (hereafter CACM regulation). Poland implemented amongst others a reform allowing all market participants to bid or change their energy bids at least until the intraday gate closure time.

Poland indicated in its Monitoring report I that it has terminated a series of old schemes, including the cold Contingency Reserve, the Interventional Operation, the Guaranteed Program of Emergency DSR, the Operational Capacity Reserve. In addition, according to its Monitoring Report I, the Polish capacity market will be regularly reviewed and adapted to the provisions envisaged in the Electricity Regulation, in particular pursuant to Article 22(5).

2. Balancing markets

As described in its final Market Reform Plan, Poland aims to fundamentally reform its balancing market. The changes were separated in two stages, with initial completion dates due 2021 and 2022 respectively. The first stage involves: enabling participation of demand side response (DSR), and storage in balancing, extending the bidding update period until intraday gate closure and increased monitoring, improving valuation and settlement rules for redispatching, changing imbalance pricing and clearing rules to reduce arbitrage. The second stage of balancing reforms, which was due in 2022, is composed of: the possibility to procure upward and downward reserve separately, the implementation of necessary changes to join EU balancing platforms, the implementation of updated planning and settlement rules for balancing service providers, and the implementation of a scarcity shortage pricing mechanism.

Poland signals in its Monitoring Report I that this first stage was fully implemented as of January 2021, with the exception of the last measure, which came into force one year later (January 2022). In contrast, Poland signals in its Monitoring Report I that the second stage of

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11 The situation has evolved as compared to the one described in the Monitoring Report published in July 2021: Belgium, together with the project parties involved in the day-ahead Core Flow-Based Market Coupling project (Core FB MC) announced the successful go-live of the project on 08/06/2022. Source: https://www.eliagroup.eu/en/news/press-releases/2022/06/20220609_flow-based-market-coupling-mechanism-extended-to-all-13-countries

12 https://energy.ec.europa.eu/system/files/2020-05/pl_adopted_opinion_en_0.pdf

13 Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management, 25.7.2015, OJ, L 197, p.24

reforms has been delayed due to the extensiveness of the measures involved and the need to adapt the IT, legal and business infrastructures beforehand. The new implementation date shall thus be between January and June 2023, although preparatory work is already underway.

3. Demand side response

As committed in its Market Reform Plan, Poland states that it implemented a reform allowing demand side response to participate in wholesale electricity markets (including day-ahead and intraday markets), as well as in balancing markets since 2021. Poland specifies that this can be performed individually or via aggregators. Poland clarifies that further functionalities will be released as part of the second stage of balancing reforms, where demand side response will be able to also offer balancing capacity (not only balancing energy).

Additionally, with regard to smart meter rollout, Poland had indicated in its Market Reform Plan that new legislation regarding smart meter deployment (including a new schedule for the roll out) was in the process of adoption. However no target date was given.

In its Monitoring Report I, Poland indicates that the new legislation regarding the deployment of remote reading meters was adopted in July 2021 as part of the amendment to the Energy Law, including a detailed schedule for the installation of meters by distribution system operators (DSOs). At least 80% of households will be equipped.

4. Retail markets

The main aspect of the retail market reform was the deregulation of retail prices. On this aspect, Poland informed through its Market Reform Plan that no decision was taken in this regard, and that all customers eligible to regulated prices could also choose offers with unregulated prices.

In the Monitoring Report I, Poland announces that the implementation of Electricity Directive has led to another draft amendment to the Energy Law. This includes a new retail contract with dynamic pricing, the creation of a price comparison website to facilitate communication and switching, a proposal of a legal framework for the operation of energy communities and a new regulation to allow retail switching within 24 hours by 2026.

5. Interconnection

Poland indicates it has deployed the grid upgrades it pledged, and has carried out significant work in its integration to regional market coupling. In particular, in February 2021, it joined the Single Day-Ahead Coupling (SDAC) and in November 2019 the Single Intraday Day Coupling (SIDC) initiatives. In June 2021, Poland launched the net Transmission Capacity (NTC) interim coupling solution while preparing for the Flow-Based integration as part of the Core Go-Live planned April 2022.

In its Market Reform Plan, Poland informed that allocation constraints will continue to be enforced. Poland argues that the procurement of balancing reserves before SDAC should mitigate these effects, and is in line with ACER's Core Capacity Calculation methodology[14].

In its Monitoring Report I, Poland signalled that this procurement would be delayed as part of the second stage of reforms and as such is delayed to 2023.

[14] See Decision 02/2019 of the Agency Cooperation of Energy Regulators of 21 February 2019 on the proposal of the TSO of the Core Region on the regional design of common methodologies for calculating capacity for the day-ahead and intraday markets, p. 20-22

2.3. IRELAND

In its Monitoring Plan, Ireland states that it faces electricity generation adequacy concerns. It refers to its TSO's (EirGrid) Generation Capacity Statement[15] published in September 2021 which forecasts a significant capacity shortage of around 2 GW (approximately, one third of the peak demand) by the middle of the decade. Ireland considers that various factors have contributed to these shortages. These include the significant demand growth, dispatchable generation exiting the market, increasing generation forced outage rates, and limited new dispatchable generation capacity entering the market in recent years despite the capacity mechanism. Ireland signals that the availability of the current generation fleets also continues to decline due to the presence of a number of older plants exiting the system in line with targets for decarbonisation and compliance with emission limits.

In its Monitoring Report I, Ireland takes stock of the progress made by the measures and reforms proposed in its Market Reform Plan[16].

1. General wholesale price conditions

Ireland indicated in its final Market Reform Plan that it does not have price caps other than applying harmonised maximum and minimum clearing prices for single day-ahead and intraday coupling in accordance with Article 41(1) and 54(1) of Commission Regulation (EU) 2015/1222[17] (hereafter CACM regulation'). In its Monitoring report I Ireland indicated that it was revising the technical price limits of the intraday market.

Ireland informs in its Monitoring Report I that the VoLL for the i-SEM (Single Electricity Market) is currently being recalculated based on customer surveys in accordance with ACER's methodology[18] pursuant to the Electricity Regulation. A new single VoLL is expected to be introduced in Q2 2022.

2. Balancing markets

Ireland explains in its Monitoring Report I that it has implemented a series of measures for the procurement of competitive system services foreseen under the DS3 (Delivering a Secure, Sustainable Electricity System) program, on time. The DS3/competitive system service arrangements are expected to be completed by 2025.

In its Market Reform Plan, Ireland indicated it would be joining the EU balancing platforms for replacement reserves (RR) and mFRR in accordance with Articles 19 and 20 of the Balancing Guideline, albeit with no specific timeline. In this regard, a consultation process is ongoing.

In addition, in its final Market Reform Plan, Ireland considers that the scarcity price floor of the i-SEM, which is set at 25% VoLL, will change following the revision of the VoLL. Ireland argues that this is believed to raise the delivery incentive for generation and demand response and enhance adequacy.

3. Demand side response

In its Market Reform Plan Ireland committed to introducing measures to foster demand-side response. In terms of price-based demand side response, Ireland signalled in its Monitoring report I that it has introduced time of use tariff since 26 February 2021. Other smart services

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15 https://www.eirgridgroup.com/site-files/library/EirGrid/208281-All-Island-Generation-Capacity-Statement-LR13A.pdf

16 https://energy.ec.europa.eu/system/files/2020-05/adopted_opinion_ireland_en_2.pdf

17 Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management, 25.7.2015, OJ, L 197, p.24

18 Microsoft Word - VOLL CONE RS - Annex I (europa.eu)

such as remote reads, smart bills and access to historical consumption information went live at the same time. Ireland has introduced measures to encourage explicit demand response (incentive-based) by exempting demand side units from reliability option payments where the contracted demand is delivered.

On the smart meter rollout, Ireland committed in its Market Reform Plan to a full rollout by 2025. In its Monitoring Report I, Ireland reports that due to the Covid-19 pandemic, national policies and the transposition of the Electricity Directive, a re-scoping exercise was carried out for Phase 2 (2021- 2022), resulting in the end date for Phase 2 and the commencement of Phase 3 (2023-2024) extended by 9 months. On the contrary, Phase 1 (2019–2020) was successfully concluded with the installation of approximately 250,000 smart meters of the National Smart Metering Programme.

4. Retail market

In its Market Reform Plan, Ireland indicated that there were no regulated prices on its retail market. Hence, no further action was taken by Ireland.

5. Interconnection

In terms of grid development, Ireland has set in its Monitoring Report I, two new important targets for the development of the grid. Firstly, its TSO (Eirgrid) published a Roadmap[19], which foresees major upgrades and extensions to the electricity transmission system[20]. Secondly, in its Market Reform Plan, Ireland had outlined plans for development of an offshore electricity grid, in tandem with new interconnection, with the intention to connect at least 3.5GW of offshore wind through competitive auctions by 2030. In its Monitoring report I, this target was updated to 5 GW of offshore wind by 2030 in the 2020 Programme for Government[21].

In terms of enhanced interconnection, Ireland claims in its Monitoring report I to have advanced on the development of regulatory frameworks to support the delivery of two new interconnectors (Celtic interconnector[22] - expected to be commissioned by 2025/2026 - and Greenlink[23] - expected to be commissioned by 2024). With regards to the North-South interconnector, Ireland signals in its Monitoring report I that its construction has been delayed, albeit expected to proceed to commence construction. According to the Irish Market Reform Plan, it was expected to commence in 2020.

2.4. LITHUANIA

Lithuania reports in its Monitoring Plan about the results of the adequacy outlook as described in the TSO's (Litgrid) National 10-Year Network Development Plan. It reports that the Lithuanian electricity system is highly dependent on interconnections and accordingly on imports from neighbouring systems, but still is in adequacy limits, set by the Law on

[19] EirGrid, 2021, *Shaping Our Electricity Future Roadmap*, available at: https://www.eirgridgroup.com/the-grid/shaping-our-electricity-f/

[20] among them, EirGrid prepared a planning application for the North Connacht 110kV Project for anticipated submission in early 2022, and if successful, the project would move into construction phase in 2023

[21] https://www.rte.ie/documents/news/2020/06/draft-programme-for-govt.pdf

[22] The Celtic Interconnector, which is expected to be commissioned in 2026, will link the electricity transmission systems of Ireland and France, with a capacity of 700MW.

[23] The Greenlink Interconnector is planned for commissioning in 2024 and is proposed to link the transmission grids in Ireland and Wales with 500MW capacity. The CRU has published a consultation on the proposed cost recovery model for EirGrid in developing the Celtic electricity interconnector in June 2, 2021. The CRU has also published its decision paper on the Cap and Floor regulatory framework for the Greenlink electricity interconnector, on 30 September 2021.

Electricity Energy of Republic of Lithuania. The introduction of flexibility measures (such as electricity storage facilities) together with the integration of renewables has a positive impact on the system adequacy. Lithuania informs that the TSO is conducting a new adequacy assessment according to the ERAA methodology, taking into account national circumstances and the results are expected to be available by the middle of 2022. Furthermore, according to the Law on Electricity, the national regulatory authority will have to set a new reliability standard by 1 May 2022.

In its Monitoring Report, Lithuania gives update on the progress made on the implementation of the following measures proposed in its Market Reform Plan[24]:

1. General wholesale price conditions

Lithuania indicated in its final Market Reform Plan that it does not have price caps other than applying harmonised maximum and minimum clearing prices for single day-ahead and intraday coupling in accordance with Article 41(1) and 54(1) of Commission Regulation (EU) 2015/1222[25] (hereafter CACM regulation).

In its Monitoring Report I, Lithuania indicates that the Baltic States have agreed to establish a regional coordination centre in accordance with Articles 34 to 47 of the Electricity Regulation in Tallinn (Estonia) and work with national regulatory authorities of the Baltic States has begun on time in this regard.

2. Balancing markets

In its Market Reform Plan Lithuania committed to create a single Load Frequency Control (LFC) block together with other Baltic TSOs by the date of EU synchronization, which would allow FRR to be dimensioned at Baltic regional level. To this effect, Lithuania signalled in its Monitoring Report I, that a conceptual agreement with a detailed methodology has been completed.

Lithuania indicated in its Monitoring Report I that the following measures have been delayed until Lithuania joins the EU platform for mFRR according to Article 20 of the Balancing Guideline (expected Q3-Q4 2023):

- The implementation of a 15 minutes imbalance settlement period according to Article 53 of the Balancing Guideline due 1 January 2021;
- The removal of price caps on balancing energy (e.g. Baltic wide 5000 €/MWh) other than the technical price limits as determined according to Article 30(2) of the Balancing Guideline due by 2023 at the latest;
- The introduction of a scarcity pricing function (due as soon as possible and no later than the launch of the EU platform for mFRR). Lithuania had committed to assess its applicability to both balancing responsible parties and balancing service providers. In its Monitoring Report I, Lithuania signalled that legal provisions for the calculation of the VoLL have entered into force in 2021.

In terms of participation in EU balancing platforms, Lithuania has indicated in its Monitoring Report I that:

- Participation in the EU platform for mFRR according to Article 20 of the Balancing Guideline is expected at the same time as the Nordic TSOs (e.g. around Q3-Q4 2023) given the links between the Baltic and Nordic markets.

[24] https://energy.ec.europa.eu/system/files/2020-05/adopted_opinion_lt_en_2.pdf

[25] Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management, 25.7.2015, OJ, L 197, p.24

- Participation in the EU platform for aFRR according to Article 21 of the Balancing Guideline is still planned by the time of EU synchronization (January 2025). Lithuania has indicated that its TSO (Litgrid) has joined the project as an observer.
- Participation in the future EU platform for imbalance netting according to Article 22 of the Balancing Guideline is still planned by the time of EU synchronization (January 2025).
- Participation in existing initiatives for the joint procurement of FCR resources is still dependent on neighbouring countries' participation. It will be considered post EU synchronization at the earliest.

3. Demand side response

Lithuania pledged in its Market Reform Plan to a roll-out of smart meters in 2 phases (by December 2023 for all household consumers with consumptions over 1000 kWh per year and after 2024 for household consumers with consumptions less than 1000 kWh per year). In its Monitoring report I Lithuania explains that an initial analysis of the solution was conducted with the winning vendor, which concluded that installing and testing the physical infrastructure and cybersecurity software beforehand was necessary to reduce costs and risks. Consequently, the roll-out is set to start Q1 2022 and be completed in 2025 (initial completion was planned for early 2023). Despites this change, Lithuania still notes that, by 2023, 80% of electricity supplied through DSOs will be equipped with smart meters.

In its Market Reform Plan, Lithuania committed to the introduction of an independent aggregator by 1 January 2021, in order to facilitate the participation of explicit demand side response. In its Monitoring Report I Lithuania indicated that the regulatory amendments to enable the participation of demand side response in the market were approved in 2020; however demand side response through aggregation will only be operational as of January 2022.

In parallel, Lithuania committed in its Market Reform Plan to establish, by end of 2023, a centralised platform for the collection and sharing of electricity consumption data for energy market participants. According to the Monitoring report I, this package should be delivered on time. Technical developments have been completed on schedule so far.

4. Retail markets

The main measure that relates to the retail market for Lithuania is the price deregulation process. Lithuania pledged in its Market Reform Plan to terminate all regulated price contracts in 3 phases (starting from 1 January 2021 and until 1 January 2023) based on consumer annual consumption. In its Monitoring report I, Lithuania reported that it had implemented the first phase of the liberalization for consumers with annual consumption lower than 5000 kWh. It indicated nonetheless that the second phase (i.e. for consumers with annual consumption below 1000 kWh) has undergone a half year delay (from January to July 2022) to cope with the energy crisis and avoid high pressure on targeted consumers.

5. Interconnection

In the context of synchronizing the Baltic electricity system with the Continental European Network, Lithuania committed in its final Market Reform Plan to timely communicate, in coordination with its EU neighbours, on the likely evolution of future interconnector capacity to market participants. Certainty about the volume of available future interconnection capacity is important for market participants to be able to make informed decisions about investments in generation and demand response. Lithuania reports that this measure has been implemented.

3. COMMENTS

The Commission has the following comments on the implementation of the measures as reported in the Monitoring Reports of the four Member States subject to the analysis of this opinion. As a general consideration, the Commission reiterates that the thorough implementation of the rules proposed as part of the Clean energy for all Europeans package[26] is essential to ensure that the transition to a climate natural energy system takes place at least cost and that security of supply is maintained during transition.

The assessment by the Commission focuses on the following aspects:

– Progress in terms of implementation of the reforms proposed by the Member State in its respective Market Reform Plan

– Delays in implementation of the reforms proposed by the Member State in its Market Reform Plan

– New measures proposed by Member States in their latest Monitoring Report

– Contribution of the implemented measures to reducing the adequacy concern in the Member State

3.1. BELGIUM

Progress

The Commission welcomes Belgium's efforts to deliver on time most of the measures included in its final Market Reform Plan. The Commission invites Belgium to continue implementing those measures in order to eliminate any identified regulatory distortions or market failures and to alleviate resource adequacy concerns.

The Commission welcomes in particular the progress made on reforming the balancing market.

Delays in implementation of reforms

The Commission notes that the implementation of Core Flow-Based Market Coupling (Core FB MC) has undergone a slight delay due to competing developments at EU level. The Commission understands that meanwhile the implementation of Core FB MC has evolved with regards to what was reported in Belgian Monitoring Report and welcomes the successful go-live of the project on 8 June 2022[27].

New measures

The Commission welcomes the new target proposed by Belgium in its Monitoring report, bringing forward the deployment of smart meters in Flanders to 100% of customers by 2029 (instead of 2034).

Other comments

The Commission notes that Belgium does not intend to extend its strategic reserve beyond the deadline set in the State aid decision[28] (end of March 2022).

Contribution of the implemented measures to reducing the adequacy concern

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[26] https://ec.europa.eu/energy/en/topics/energy-strategy/clean-energy-all-europeans

[27] Source: https://www.eliagroup.eu/en/news/press-releases/2022/06/20220609_flow-based-market-coupling-mechanism-extended-to-all-13-countries

[28] SA.48648 (2017/NN) - Belgium - Strategic Reserve, C(2018) 589 final, OJ C 121, 6.4.2018, p. 1–13

The Commission notes that Belgium's Monitoring report I does not contain information about the effects of the adopted measures on resource adequacy and invites Belgium to explain whether and how the measures implemented have contributed to reducing or addressing the adequacy concerns. In particular, the Commission invites Belgium to monitor the effectiveness of the adopted measures and quantify their impact on resource adequacy.

3.2. POLAND

Progress

The Polish monitoring report is rather brief, but covers nonetheless the essential points presented in the final implementation plan. The Commission generally welcomes the progress made by Poland in implementing the reforms proposed in its Market Reform Plan. The Commission invites Poland to continue implementing those measures in order to eliminate any identified regulatory distortions or market failures and to alleviate resource adequacy concerns.

In particular, the Commission welcomes the termination of a series of Polish schemes in the course of 2021 (such as the cold contingency reserve, guaranteed program of emergency demand side response, operational capacity reserve). The Commission also welcomes the planned actions of Poland to facilitate the participation of demand response and the roll out of smart meters.

Delays in implementation of reforms

Whilst the Commission acknowledges the good progress made by Poland in completing the first stage of reforms for the balancing reforms, it regrets that Poland has decided to postpone the second stage of balancing reforms to 2023. This caused the delay of a certain number of measures that were initially planned for early 2022 (such as participation in EU platforms, removal of price limits, implementation of a scarcity pricing function). The Commission recommends that these reforms are implemented as soon as possible.

Article 5 of the Electricity Market Directive allows Member State to put in place price regulation which can be one of the measures to help protect consumers in the current exceptional circumstances. However, as also outlined in the Commission communication of 8 March[29], Poland should accompany such a scheme with a roadmap with milestones for removing regulated prices in time, with the aim of returning to full competition on the basis of new wholesale price level. The milestones should be associated with other measures to achieve effective competition, in particular the full and effective implementation Chapter III of the Electricity Market Directive.

New measures

The Commission supports the introduction of the new retail measures (ie contract with dynamic pricing, price comparison tool, legal framework for the operation of energy communities and aggregators, new regulation to allow retail switching within 24h by 2026). These measures will increase retail competitiveness and system flexibility, and they could contribute to the identification and support of vulnerable customers and to the reduction of energy poverty. The Commission welcomes Poland's plan to adopt a new legislation with regard to smart meter rollout, as Poland had indicated in its Market Reform Plan and invites Poland to set a clear target date for smart meters deployment.

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[29] European Union: European Commission, *REPowerEU: Joint European Action for more affordable, secure and sustainable energy*, 8 March 2022, COM(2022) 108 final, available at: https://energy.ec.europa.eu/system/files/2022-03/REPowerEU_Communication_with_Annexes_EN.pdf

Other comments

In its Opinion on the implementation plan of Poland[30], the Commission requested Poland to ensure that its TSO removes export and import restrictions as soon as possible and in any event no later than the moment when it introduces the new balancing capacity procurement process. In its Market Reform Plan, Poland indicated that the allocation constraints will not be removed but that the impact should be largely reduced with the implementation of explicit procurement of balancing capacities before the single day ahead coupling. The Commission notes that Poland then signalled in its Monitoring Plan that this procurement would be delayed to 2023. The Commission reiterates its views of its Commission Opinion on the Market Reform Plan to remove allocation constraints on interconnectors.

Contribution of the implemented measures to reducing the adequacy concern

The Commission notes that Poland's Monitoring report I does not contain information about the effects of the adopted measures on resource adequacy and invites Poland to explain whether and how the measures implemented have contributed to reducing or addressing the adequacy concerns. In particular, the Commission invites Poland to monitor the effectiveness of the adopted measures and quantify their impact to resource adequacy.

3.3. IRELAND

Progress

The Commission takes note of Ireland's commitment to follow up on the reforms and measures proposed in its Market Reform Plan and encourages Ireland to keep the same level of commitment to further improve market functioning and comply with the goals set out in the Market Reform Plan.

In particular, the Commission welcomes the progress made by Ireland in implementing balancing market reforms, measures to foster demand side response and the progress on the regulatory frameworks for the new interconnectors (Celtic and Greenlink).

Delays in implementation of reforms

The Commission notes that some measures have seen a slight delay and invites Ireland to adhere to the timelines set out in the submitted Monitoring report I to avoid further delays. In particular, whilst the Commission welcomes the completion of phase 1 of the smart meter roll out, it notes the delay in terms of the implementation of phase 2 and 3. In addition, the Commission notes the slight delay in terms of the start of the construction of the North-South interconnector.

New measures

The Commission welcomes the introduction of new measures in the Irish Monitoring Report I, in particular the new targets for offshore grid development.

Other comments

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[30] European Union: European Commission, *Opinion pursuant to Article 20(5) of Regulation (EC) No 2019/943 on the implementation plan of Poland*, 16 March 2020, C(2020) 1564 final, available at: https://energy.ec.europa.eu/system/files/2020-05/pl_adopted_opinion_en_0.pdf

In the Commission Opinion on the Irish Market Reform Plan[31], the Commission highlighted the importance for Ireland to join the EU platforms for balancing as soon as it becomes interconnected with the integrated EU electricity market. The Commission notes that no date has not committed to this in the final Market Reform Plan.

The Commission also points out that Ireland should consider whether the possible modification of the scarcity price floor of the i-SEM should apply not only to balance responsible parties but also to balance service providers which provide balancing energy to the TSO. The Irish authorities did not take into account this comment on the implementation of a shortage pricing function in its final Market Reform Plan.

The Commission also notes that the security of supply situation is deteriorating in Ireland, despite the capacity mechanism. The Commission urges Ireland to identify as soon as possible any flaws in the capacity mechanism design or other reasons leading to a lack of sufficient investment, and invites Ireland to discuss options for resolving the situation with the Commission.

Contribution of the implemented measures to reducing the adequacy concern

The Commission notes that Ireland's Monitoring report I does not contain information about the effects of the adopted measures on resource adequacy and invites Ireland to explain whether and how the measures implemented have contributed to reducing or addressing the adequacy concerns. In particular, the Commission invites Ireland to monitor the effectiveness of the adopted measures and quantify their impact to resource adequacy.

3.4. LITHUANIA

Progress

The Commission generally welcomes the progress made by Lithuania in the implementation of the measures and reforms proposed in its Market Reform Plan and encourages Lithuania to keep the same level of commitment to further improve market functioning and comply with the goals set out in the Market Reform Plan.

Delays in implementation of the reforms

The Commission notes that Lithuania is generally experiencing some delay for most balancing market reforms. The Commission also notes that Lithuania is experiencing some delay in terms of roll out of smart meters and the effective participation of demand side response through aggregation. The Commission takes note of the small delay signalled by Lithuania with regards to the removal of regulated retail prices (half-year delay for phase 2 of the liberalization to cope with the energy crisis).

New measures

The Commission invites Lithuania to adhere to the commitment taken under the Market Reform Plan and to take further action to follow up on the examination of additional measures to increase the deployment of price-based demand side response.

Other comments

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[31] European Union: European Commission, *Opinion pursuant to Article 20(5) of Regulation (EC) No 2019/943 on the implementation plan of the Republic of Ireland*, 30 April 2020, C(2020) 2657 final, available at: https://energy.ec.europa.eu/system/files/2020-05/adopted_opinion_ireland_en_2.pdf

The Commission underlines the importance for Lithuania to participate in existing initiatives for the joint procurement of FCR resources by the date of synchronisation with Continental Europe at the latest as per its commitment in its Market Reform Plan.

Contribution of the implemented measures to reducing the adequacy concern

The Commission notes that Lithuania's Monitoring report I does not contain information about the effects of the adopted measures on resource adequacy and invites Lithuania to explain whether and how the measures implemented have contributed to reducing or addressing the adequacy concerns. In particular, the Commission invites Lithuania to monitor the effectiveness of the adopted measures and quantify their impact to resource adequacy.

4. CONCLUSION

Pursuant to Article 20 (6) of the Electricity Regulation, Member States shall continue monitoring the application of their implementation plans and shall publish the results of the monitoring in an annual report and submit that report to the Commission. In this report, Member States are invited to explain whether and to what extent the market reforms have been implemented according to the planned timeline, and if not explain the reasons why. The Commission will review the monitoring reports and issue a formal opinion on the reform process.

The current bundled opinion will be followed next year by an opinion of a similar nature. Next year opinion's assessment will involve:

– Monitoring Reports II: the updated Monitoring reports of the Member States covered by the present analysis (i.e. Belgium, Poland, Lithuania and Ireland), and

– Monitoring Reports I: the first Monitoring reports of the Member States, that have only submitted their final Market Reform Plans by the end of 2021 and that will issue for the first time their Monitoring Report by the end of 2022.

Therefore, the Commission invites both Member States who have submitted the monitoring reports and Member States who have submitted their final Market Reform Plans to submit by the end of 2022 the updated and the new Monitoring reports, respectively. These Monitoring Reports will then be subject to the analysis of the Commission, who will issue a collective opinion by summer 2023.

The Commission's position expressed in this opinion is without prejudice to any position it may take on the compatibility of any national implementing measure with EU law.

The Commission will publish this document on its website. The Commission does not consider the information contained therein to be confidential. The Member States concerned by this opinion are invited to inform the Commission within ten working days following receipt whether and why they consider that, in accordance with EU and national rules on business confidentiality, this document contains confidential information which they wish to have deleted prior to such publication.

Done at Brussels, 12.12.2022

For the Commission
Kadri Simson
Member of the Commission

CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION