



Brussels, 7.12.2022  
C(2022) 9237 final

## **COMMISSION OPINION**

**of 7.12.2022**

**under Regulation (EU) 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 Croatia to the European Commission.**

Only the Croatian text is authentic

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### 1. PROCEDURE

Article 10 of Regulation (EU) 2019/941 of the European Parliament and of the Council of 5 June 2019 on risk-preparedness in the electricity sector and repealing Directive 2005/89/EC<sup>1</sup> (the "Regulation") requires the Competent Authority of each Member State to establish a Risk-Preparedness Plan ("RPP"). In accordance with Article 10(8) of the Regulation, the RPPs have to be updated every four years, unless circumstances require updates that are more frequent. The consultation between Competent Authorities and the Electricity Coordination Group provided for under Article 10(4) of the Regulation has to be carried out before the adoption of the RPP.

The RPP (as well as its updates) need to be based on the regional electricity crisis scenarios identified by ENTSO-E<sup>2</sup> pursuant to Article 6 of the Regulation as well as the national electricity crisis scenarios that each Competent Authority has to identify before the adoption of the RPP pursuant to Article 7 of the Regulation. The electricity crisis scenarios must be identified in relation to system adequacy, system security and fuel security and considering, among others, extreme natural hazards, accidental hazards and consequential hazards, including the consequences of malicious attacks.

The Competent Authority of Croatia, Ministry of Economy and Sustainable Development ("MINGOR"), notified its draft RPP to the Electricity Coordination Group for the purpose of the consultation required by Article 10(4) of the Regulation on 20 May 2021. MINGOR notified to the Commission on 3 January 2022 its final RPP.

After having assessed the RPP, in view of the criteria mentioned in Article 11 of the Regulation and the templates provided for in the Annex to the Regulation, and having consulted the Electricity Coordination Group between 7 January and 31 January 2022, the Commission has the following remarks on the RPP.

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

The RPP is quite comprehensive in the description of the national framework and measures, specifying the applicable measures for each scenario and including specific references to civil protection, critical infrastructure and cyber response. The RPP also includes a detailed

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

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

explanation of mechanisms for cooperation and coordination among transmission system operators (TSOs), including the applicable rules for cost coverage and financial settlement.

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 MINGOR includes a short description of the national electricity crisis scenarios identified, largely based on the regional electricity crisis scenarios identified by ENTSO-E. However, these descriptions are of very general nature. It is not possible to conclude from these descriptions what the concrete scenarios simulated for Croatia are. For example, for the scenario named ‘fossil fuel shortage’, there are no details on the concrete simulations per type of fuel (fuel or gas), nor quantifications of the impact of the risk scenario (references are limited to possibilities without describing specific impacts, e.g. possibility of energy shortages due to the shutdown of some of the power plants affected).

The Commission considers that the RPP submitted by MINGOR needs to be amended to further describe all the national and regional 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 MINGOR needs to be updated in the light of these circumstances, focusing on geopolitical risks, dependence on fuels and on other supply chains from third countries (including fuel-switching possibilities) and spill over effects from other sectors into electricity (e.g. increase in electricity demand for heating purposes in the absence of other fuels). The Commission reminds MINGOR that Article 10(8) of the Regulation already requires updating the RPP more frequently than every 4 years where circumstances so warrant.

The Commission recommends that the description of the scenarios includes:

- A clear link between the national and regional scenarios, including the assumptions for its selection and/or rejection;

- A description of the scope, including the national and regional characterization of the hazard;
- The characterization of the selected scenario, including the cross-sector and cross-border interdependencies, initial condition of the system prior to the initiating event, assets exposure and vulnerabilities (based on damage curves if available), and the time-horizon and assumptions applied.
- Account and timeline of events, including the description of initiating events and chain of events. The description should include the coping mechanisms and characterization of the response, including the applicable procedures and measures at national and regional level.
- Impacts on the electricity system and assets, including electricity flows and consequences. The assessment should include a quantitative analysis in terms of EENS<sup>3</sup>/LOLE<sup>4</sup> estimates and/or other quantitative values, as well as possible spill over effects to other sectors, e.g. to the gas sector.
- Specifically for scenarios on cyber-risks, a reference to a framework with minimum and advanced cybersecurity requirements, procedures to follow in case of an incident, a description of the roles and interactions between the competent authority and the cyber-specific actors, such as CSIRT<sup>5</sup>, CERT<sup>6</sup> and cyber-specific authorities, including during a crisis, and the links with cyber specific legislation.
- Climate change 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(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 Croatian RPP includes the agreed mechanisms for cooperation with system operators in the region and outside the region. However, there is no reference to concrete regional and bilateral measures agreed with the Member States for cooperation and assistance in order to prevent or manage electricity crises and deliver electricity in a coordinated manner.

The Commission considers that the RPP submitted by MINGOR has to be amended to include the regional and bilateral measures required by the Regulation, including any

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<sup>3</sup> 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.

<sup>4</sup> 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.

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

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

necessary technical, legal and financial arrangements, as well as the national measures necessary to implement them.

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

Article 11(1)(g) of the Regulation as well as point 3(1)(c) of the Annex thereto, establish that the RPP have to identify possible non-market measures to be implemented in electricity crises, pursuant to specifying the triggers, conditions and procedures for their implementation, and indicating how they comply with the requirements laid down in Article 16 of the Regulation on the compliance with market rules as well as with regional and bilateral measures.

The Croatian RPP contains a list of actions and regulations applicable during a crisis, including a reference to internal operational procedures for the activation of non-market measures. Nevertheless, for the non-market-based measures, the plan does not specify the triggers, conditions and procedures for their implementation, and how they comply with the requirements laid down in Article 16 of the Regulation and with the regional and bilateral measures adopted under Article 12 of the Regulation.

The Commission takes the view that that the RPP submitted by MINGOR should be amended to further describe the non-market-based measures to be implemented in electricity crises, specifying the triggers, conditions and procedures for their implementation, and indicating how they comply with the requirements laid down in Article 16 of the Regulation and with regional and bilateral measures adopted under Article 12 of the Regulation.

### *2.1.4. Other missing items*

The Regulation also requires that:

- 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 RPP includes information on the future grid that will help to cope with the electricity crisis scenarios pursuant to Article 11(1)(k) of the Regulation.
- The competent authorities test periodically the effectiveness of the procedures developed in the RPPs for preventing electricity crises, with the involvement of relevant stakeholders and including the mechanisms to share information and cooperate, and carry out biennial simulations of electricity crises, pursuant to Article 12(3) of the Regulation as well as point 6 of the Annex thereto.

The RPP states that the plan is developed and agreed after internal consultations with certain stakeholders via teleconferences, and that further consultations will be held with a number of stakeholders detailed in the RPP. However, the Croatian RPP does not describe the consultations with all the stakeholders required by the Regulation nor the results of such consultations.

The RPP submitted by MINGOR does not include any references to future grid development that will help to cope with the consequences of the identified electricity crisis scenarios nor indicates why this would not be necessary.

The Croatian RPP includes training exercises for dispatchers with neighbouring TSO dispatchers and plans some further real time crisis simulations at national level. 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 MINGOR has to be amended to include the missing information indicated above. Moreover, and given the current exceptional circumstances, the Commission recommends that MINGOR 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 MINGOR, 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 MINGOR refers to the list of significant grid users and high priority significant grid users and vulnerable and protected customers, but there is no mention to categories of electricity users entitled to receive special protection against disconnection as referred to in Article 11(1)(h) of the Regulation. To improve clarity, the RPP should confirm whether such category of electricity users entitled to receive special protection against disconnection exists in Croatia. Should this category exist, the Commission reminds MINGOR that the RPP needs to specify such users pursuant to Article 11(1)(h) of the Regulation as well as point 3(1)(d) of the Annex thereto and the RPP would then need to be amended
- The Croatian RPP identifies two regions and a list of Member States and third countries for the coordination of measures and procedures. Nevertheless, the definition of region for the purpose of implementing the Regulation should be clarified, by clearly referring either to a Member State or to a group of Member States located in the same synchronous area.
- 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 MINGOR that such measures should be listed in the RPP if they existed. In such case, the Commission also recommends that the risk/impact on GHG emissions is quantified and assessed to determine the alignment of the RPP with the climate neutrality goal.

### 3. CONCLUSION

Based on the above assessment, and in view of Article 13(2)(c) of the Regulation, the Commission concludes that some elements of the RPP submitted by MINGOR do not comply with certain provisions of this Regulation.

The Commission requests MINGOR 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. Furthermore, the Commission urges Croatia 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* Croatia as regards the compatibility of national measures with EU law, including in the context of infringement proceedings and the enforcement of European Union competition rules, including State aid rules.

The Commission will publish this opinion. The Commission does not consider the information contained herein to be confidential, in particular as it relates to the RPP which is publicly available. MINGOR 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, 7.12.2022

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