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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 Hungary to the European Commission.**

Only the Hungarian 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 Hungary, the Hungarian Energy and Public Utility Regulatory Authority ("MEKH"), notified its draft RPP to the Electricity Coordination Group for the purpose of the consultation required by Article 10(4) of the Regulation on 8 May 2021. MEKH notified to the Commission on 4 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, including a general approach and a specific approach for each scenario. It describes clearly the load-shedding procedures, including for essential users. 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) and the results of the consultations carried out, which the Commission welcomes.

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 MEKH 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 Hungary are. For example, for the scenario named ‘Fossil fuel shortages (including natural gas shortages)’, there are no details on the concrete simulations per type of fuel (coal or gas), nor quantifications of the impact of the risk scenario (references are limited to possibilities without describing specific impacts, e.g. the RPP states that the risks are different if the scenario is related to the interruption of production, malicious activity, a transit barrier, and/or other reasons, without describing those risks).

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 MEKH 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 MEKH 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.
- Diversification plan for nuclear fuel supply, including timing of designing, licensing and use of fuel from alternative suppliers. The assessment should include qualitative analysis of potential alternative suppliers.
- Climate change and environment considerations, such as climate vulnerability and risks and environmental impacts, including with a view to design preventive measures against the climate and environmental risks identified in order to reduce exposure and vulnerability to the risks.<sup>7</sup> This would include an assessment of the reduction or increase of GHG emissions and the environmental impacts resulting from prevention and mitigation measures included in the RPP.

### 2.1.2. *Missing information on regional and bilateral measures for cooperation and assistance among Member States*

Pursuant to Article 15 of the Regulation, Member States have to cooperate in a spirit of solidarity in order to prevent or manage crises. Where they have the technical ability, Member States have to offer each other assistance by means of regional measures (with Member States within their region) and bilateral measures (with Member States to which they are directly connected but do not belong to the same region). Such regional and bilateral measures must be described in the RPP in accordance with Articles 12 and 15 of the Regulation and point 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.

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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.

<sup>7</sup> See for example the 2019 Report of the European Environment Agency “Adaptation challenges and opportunities for the European energy system - Building a climate-resilient low-carbon energy system” and the Commission Notice — Technical guidance on the climate proofing of infrastructure in the period 2021-2027 (OJ C, C/373, 16.09.2021, p. 1)

The Hungarian RPP describes the agreed mechanisms for coordination and cooperation with system operators in the region and outside the region, including inter-TSO and international assistance agreements. The RPP also mentions bilateral agreements with neighbouring Member States, but no description is provided. Therefore, it is unclear whether such agreements fully comply with the requirements of Article 15 of the Regulation or if they need to be supplemented with additional measures to be fully compliant.

The Commission considers that the RPP submitted by MEKH has to be amended to explain the regional and bilateral measures contained therein, including any necessary technical, legal and financial arrangements, as well as the national measures necessary to implement them. If such measures fell short of the requirements of Article 15 of the Regulation, the RPP would have to be amended to include the necessary measures to fully comply with the cooperation and assistance mechanism required by Article 15.

### 2.1.3. *Other missing items*

The Regulation also requires that:

- Member States shall determine and the RPP describe the definition of an electricity crisis, pursuant to Article 2(9) 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 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 RPP submitted by MEKH states that an electricity supply crisis is defined in the Electricity Act and the Government Decree, but such definition is not provided in the RPP. The Hungarian RPP also explains that the emergency test are being developed, but it does not include any references to biennial regional real time response simulations of electricity crises, including the procedures agreed and the actors involved. In addition, the RPP submitted by MEKH 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 Commission takes the view that the RPP submitted by MEKH has to be amended to include the missing information indicated above. Moreover, and given the current exceptional circumstances, the Commission recommends that MEKH 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 MEKH, 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 Hungarian RPP states that the availability of the Crisis Working Committee will be added in the final version, but this is not included in the final RPP and should be clarified.
- While the RPP only refers to a measure that could have an impact on greenhouse gas (GHG) emissions (i.e. inclusion of the lignite-fuelled units of the Matra power plant), the Commission reminds MEKH that all 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 could also specify the fuel that would be used in the Matra power plant in replacement for the transition period and the timing for closure.

### 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 MEKH do not comply with certain provisions of this Regulation.

The Commission requests MEKH 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 2.1.3, 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 Hungary 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* Hungary 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. MEKH 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*

*Member of the Commission*