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COMMISSION OPINION

of 17.1.2023

**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 Ireland to the European Commission.**

Only the English 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 Ireland, Commission for Regulation of Utilities ("CRU"), notified its draft RPP to the Electricity Coordination Group for the purpose of the consultation required by Article 10(4) of the Regulation on 23 August 2021. CRU notified to the Commission on 29 April 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 29 April and 23 May 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. It clearly differentiates between emergency, preventive and preparedness measures, and provides a clear link between scenarios and preventive and preparedness measures. The RPP provides a detailed description of the consultation carried out, including the results and replies to the consultation.

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 CRU identifies and shortly describes the most relevant national electricity crisis scenarios and their impact based predominantly on the expert judgement of the Transmission System Operator (TSO) and known outcomes from historical events. However, these descriptions are of very general nature. For example, for the scenario named 'Fossil fuel shortage (incl. natural gas)', 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 RPP states that it would likely cause significant lost load for a prolonged period, without providing any details).

The Commission considers that the RPP submitted by CRU needs to be amended to further describe all the national and regional scenarios considered. Although expert knowledge could serve as a basis for risk assessment, real crisis involving complex systems might result in unexpected and unforeseeable dynamics. For that reason, performing simulations of the system provides additional insights on the evolution of potential crises and their impacts, helping to identify unforeseen vulnerabilities and to define more satisfactory preventive and mitigation measures. This information on the national scenarios is also 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 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 CRU 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 CRU 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/LOLE 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 CSIRT³, CERT⁴ and cyber-specific authorities (considering the link between sectorial response and national level and EU cyber response), including during a crisis, and the links with cyber specific legislation.
- 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. 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 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 Irish RPP does not contain a definition of electricity crisis.

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

³ Computer Security Incident Response Team

⁴ Computer Emergency Response Team

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

Article 11(1)(c) of the Regulation as well as point 3(1)(b) of the Annex thereto require competent authorities to describe in the RPP the national measures designed to prevent or prepare for the risks identified in the national and regional electricity crisis scenarios. Moreover, according to Article 11(1) (g) of the Regulation and point 3(1)(c) of the Annex thereto the RPP has to identify possible 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 on the compliance with market rules as well as with regional and bilateral measures.

The RPP submitted by CRU refers in section 3.1(c) to some non-market-based measures, including a call by the TSO on Temporary Emergency Generation. While the RPP indicates that non-market based measures would only be activated in a crisis and as a last resort, the RPP does not explain the conditions and procedures for the implementation of this measure or how it would comply with the requirements laid down in Article 16 of the Regulation.

The Commission considers that the RPP submitted by CRU has to be amended to include further information on the above mentioned measure, including on conditions and procedures for its application, as well as its compliance the requirements laid down in Article 16.

2.1.4. *Other missing items*

The Regulation also requires that:

- The RPP describes 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 established⁵, 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 RPP provides a framework for manual load shedding, specifying which categories of electricity users are entitled to receive special protection, pursuant to Article 11(1)(h) of the Regulation as well as point 3(1)(d) 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 CRU explains that the Irish electricity system is not directly connected to that of another Member State. Nevertheless, the definition of region for the purpose of implementing the Regulation should be clarified, also taking into account the end of the transitional provision pursuant Article 22 of the Regulation.

The Irish RPP specifies two categories of customers exempted from demand disconnection, without specifying how the TSOs and distribution system operators are to decrease consumption.

⁵ Pursuant to Article 35 of 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. 54–124.

The RPP submitted by CRU mentions the “Transmission Development Plan (TDP)” which sets out the intentions for the development of the Irish electricity transmission network and interconnection over a ten-year period. Nevertheless, it 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 CRU has to be amended to include the missing information indicated above.

2.2 Other comments

Apart from the substantive remarks presented above, the Commission would like to draw the attention of CRU, 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 Irish RPP includes under point 3.2.d a list of agreements, procedures and codes for cooperation and coordination with neighboring transmission system operators. Nevertheless, the RPP should include more information and describe in more detail those arrangements, including operational and trading arrangements on the HVDC interconnectors.
- The Commission reminds CRU that measures which could have an impact on greenhouse gas (GHG) emissions (e.g. back-up fossil fuel generation) 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.
- Given the current exceptional circumstances, the Commission recommends that CRU accelerates any calendar for tests on the effectiveness of the procedures developed in its RPP. 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.
- When referring to the mechanisms for cooperation and coordination with other countries in section 3.2, Northern Ireland and the Single Electricity Market should be included within sub-section 3.2 (a), namely mechanisms for cooperation and coordination within the region, given that Northern Ireland should be treated as a Member State for the purpose of the application of the Regulation.
- In order to facilitate readability, it is recommended that the figures included in the plan have a better resolution.

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 CRU do not comply with certain provisions of this Regulation.

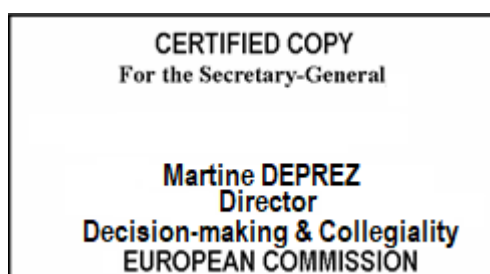
The Commission requests CRU to amend the RPP taking duly into consideration all the concerns expressed by the Commission in the present opinion and notify the amended RPP to the Commission within three months of receipt of this opinion, pursuant to Article 13(3) of the Regulation. In view of the circumstances following Russia's invasion of Ukraine, the Commission recommends to prioritise the focused update of the RPP and the detailed description of national electricity crisis scenarios, both described in section 2.1.1. The Commission urges CRU 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",⁶ while ensuring security of electricity supply. Furthermore, the Commission urges Ireland 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* Ireland 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. CRU 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, 17.1.2023

For the Commission
Kadri SIMSON
Member of the Commission



⁶ COM(2022) 360 final