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COMMISSION OPINION

of 14.6.2022

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 Finland to the European Commission.

(Only the Finnish and Swedish texts are 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 Finland, Energiavirasto, notified its draft RPP to the Electricity Coordination Group for the purpose of the consultation required by Article 10(4) of the Regulation on 7 April 2021. Energiavirasto 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.

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 describes in detail the framework for load shedding, including its activation. The RPP is clear associating measures and scenarios, as well as the estimated impacts in terms of EENS³ and LOLE⁴.

The Commission welcomes in particular the efforts devoted to regional cooperation among the Nordic countries, as described under section 4.2 of the RPP, for their mutual assistance and coordination, including joint exercises. The Commission invites Finland to further deepen such cooperation, notably in the light of the comments included in the sections below.

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 Energiavirasto identifies and briefly describes the most relevant national electricity crisis scenarios. It also refers to a more specific description in a separate document called “National Electricity Crisis Scenarios – Finland”.

Nevertheless, 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 Energiavirasto 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 Energiavirasto 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:

³ Expected Energy Not-Served (EENS) as defined in Article 2(1)(e) of the methodology for identifying regional electricity crisis scenarios established in accordance with Article 5 of the Regulation.

⁴ Loss of Load Expectation (LOLE) as defined in Article 2(1)(g) of the methodology for identifying regional electricity crisis scenarios established in accordance with Article 5 of the Regulation.

- 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 CSIRT⁵, CERT⁶ and cyber-specific authorities, including during a crisis, and the links with cyber specific legislation.
- Diversification plans for third country nuclear fuel supply, including timing of designing, licensing and use of alternative fuel design. The assessment should include qualitative analysis of potential alternative suppliers.
- Climate change considerations, such as climate vulnerability and risks, including with a view to design preventive measures against the climate risks identified with a view to reducing exposure and vulnerability to the risks.

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

Pursuant to Article 15 of the Regulation, Member States have to cooperate in a spirit of solidarity in order to prevent or manage crises. Where they have the technical ability, Member States have to offer each other assistance by means of regional measures (with Member States within their region) and bilateral measures (with Member States to which they are directly connected but do not belong to the same region). Such regional and bilateral measures must be described in the RPP in accordance with Articles 12 and 15 of the Regulation and point 3(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 Finnish RPP considers that no further assistance mechanisms are needed in an electricity crisis situation, without further explanation.

⁵ Computer Security Incident Response Team

⁶ Computer Emergency Response Team

The Commission considers that the Finnish RPP has to be amended to include the regional and bilateral measures required by the Regulation, including any necessary technical, legal and financial arrangements, as well as the national measures necessary to implement them.

2.1.3. Missing definition of electricity crisis

Article 2(9) of the Regulation defines an electricity crisis as a present or imminent situation in which there is a significant electricity shortage, as determined by the Member State and described in their RPPs, or in which it is impossible to supply electricity to consumers.

The Finnish RPP does not contain a definition of electricity crisis.

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

2.1.4. Missing information on some national procedures and measures

According to Article 11(1)(f) of the Regulation as well as point 3(1)(c) of the Annex thereto, the RPP has to describe measures to mitigate electricity crises, in particular demand-side and supply-side measures, whilst indicating in which circumstances such measures can be used especially the trigger of each measure. Moreover, according to Article 11(1)(g) of the Regulation as well as point 3(1)(c) of the Annex thereto, the RPP has to identify possible non-market 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 on the compliance with market rules as well as with regional and bilateral measures.

The Finnish RPP includes the procedures and information flows in the cases of an electricity crisis and describes briefly the national legislation to prevent and manage electricity crises. However, there is no indication in which circumstances such measures can be used, especially the trigger of each measure. In addition, the Finnish RPP describes the framework for restricting electricity use and for manual load shedding. However, 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 regional and bilateral measures adopted under Article 12 thereto.

The Commission considers that the RPP submitted by MPO has to be amended to include further information on the above-mentioned measures, including on procedures and corresponding on information flows, triggers and conditions for their application.

2.1.5. Other missing items

The Regulation also requires that:

- 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 Finnish RPP states that the Energiavirasto has not yet agreed on the timetable of emergency tests with other competent authorities and transmission system operators of the region.

The Commission takes the view that the RPP submitted by Energiavirasto has to be amended to include the missing information indicated above. Moreover, and given the current exceptional circumstances, the Commission recommends that Energiavirasto accelerates any calendar for the mandatory tests on the effectiveness of the procedures developed in its RPP. These tests should be carried as soon as possible and with a focus on winter 2022-2023. They should cover regional and national measures and communication and coordination protocols, in cooperation with neighbouring countries within the region. These tests should help improve the existing measures and the mechanisms for cooperation and communication, and identify additional national and regional measures (the latter preferably jointly with regional partners).

2.2 Other comments

Apart from the substantive remarks presented above, the Commission would like to draw the attention of the Energiavirasto, 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 Finnish RPP includes a list of applicable actions for cooperation and coordination with neighboring transmission system operators. Nevertheless, the RPP should include more information and describe in more detail the mechanisms for cooperation and coordination, including the Haga-declarations, the Finnish legislation (418/2017), and the Nordic System Operation Agreement.
- The Finnish RPP mentions the guidelines to inform the public by the Ministry of Economic Affairs and Employment and the transmission system operator. Nevertheless, the RPP should include more information and describe in more detail the guidelines used to inform the public about the electricity crisis, and the possible mechanisms used by Energiavirasto.
- The Finnish RPP mentions the obligation for distribution system operators to submit technical key figures of the network annually. Nevertheless, the RPP should include more information and describe in more detail the related and necessary plans for developing the future grid that will help to cope with the consequences of the identified electricity crisis scenarios.
- While the RPP does not refer to preventive or mitigating measures that could have an impact on greenhouse gas (GHG) emissions (e.g. back-up fossil fuel generation or the deployment of additional fossil fuel capacity), the Commission reminds Energiavirasto 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 Energiavirasto do not comply with certain provisions of this Regulation.

The Commission requests the Energiavirasto 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 2.1.5 and the missing information on regional and bilateral measures for cooperation and assistance among Member States described in section 2.1.2.

The Commission's assessment expressed in this opinion is without prejudice to any position it may take *vis-à-vis* Finland 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. Energiavirasto 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, 14.6.2022

For the Commission
Kadri SIMSON
Member of the Commission