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COMMISSION OPINION

of 3.11.2022

**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 Lithuania to the European Commission**

(Only the Lithuanian 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 Lithuania, Ministry of Energy ("ENMIN"), 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 April 2021. ENMIN notified to the Commission on 18 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 18 January and 9 February 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. The RPP provides a clear list of applicable measures, with a comprehensive description of the manual load shedding and a broad description of the procedures to inform the public.

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 ENMIN identifies 6 national crisis scenarios, providing a short description of each scenario. However, these descriptions are of very general nature. It is not possible to conclude from these descriptions what the concrete scenarios simulated for Lithuania are. For example, for the scenario named 'Cyber attack', there are no details on the concrete simulations per type of incident or affected entities (e.g. TSO, distribution system operator or power plants), 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 security of supply is affected, without providing further details). Moreover, some of the regional electricity crisis scenarios identified as significant for Lithuania by ENTSO-E, pursuant to Article 6 of the Regulation, are not described in the RPP, nor is there an explanation of the reasons why they are not considered at national level.

The Commission considers that the RPP submitted by ENMIN needs to be amended to further describe the national scenarios considered and to ensure consistency with the regional electricity crisis scenarios. 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 ENMIN needs to be updated in the light of these circumstances, focussing 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 ENMIN 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 EENS³/LOLE⁴ 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 (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 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

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.

⁵ Computer Security Incident Response Team

⁶ Computer Emergency Response Team

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 RPP submitted by ENMIN refers to regional and bilateral cooperation among Transmission System Operators (TSOs) and competent bodies, including agreed inter-operator agreements and cooperation agreements. However, and absent further information, it is unclear whether such agreements would meet the requirements for cooperation and assistance described in Article 15 of the Regulation. These types of agreements are often limited to the content of the network codes and not going beyond operation rules or information exchange. Consequently, on their own, they could fall short of the requirements of Article 15 of the Regulation, that require cooperation and assistance for the ultimate purpose of protecting public safety and personal security, going thus beyond the typically technical requirements of inter-operator agreements and information exchange among authorities.

The Commission considers that the Lithuanian 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 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. Pursuant to Article 11(1)(e) of the Regulation and point 3(1)(a) of the Annex thereto, the RPP has to establish detailed procedures to be followed in electricity crises, including the corresponding schemes on information flows.

The Lithuanian RPP includes a list of actions applicable during a crisis, including preventive and preparatory measures, as well as crisis mitigation measures. Nevertheless, the plan does not provide the description of those measures.

The Commission takes the view that the RPP submitted by ENMIN has to be amended to include further information on the above-mentioned measures, including on procedures, triggers and conditions for their application, including on the List of Measures to Ensure Security of Electricity Supply established in the national regulatory framework.

2.1.4. 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 RPP describes the agreed mechanisms for cooperation within the region and for ensuring appropriate coordination before and during the electricity crisis, including

the decision-making procedures for appropriate reaction at regional level, pursuant to point 3(2)(a) of the Annex of the Regulation. The RPP describes the mechanisms in place for cooperation and for coordinating actions, before and during the electricity crisis, with other Member States outside of the region as well as with third countries within the relevant synchronous area pursuant to point 3(2)(c) of the Annex 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 Lithuanian RPP mentions a national-level emergency as stated in the Law on Civil Protection, without providing further details.

The Lithuanian RPP lists the agreements and programs that provide the basis for regional cooperation (e.g. the Baltic Power System Balance Management Agreement, the HVDC Interconnection Management Agreements and the Baltic Disconnection for Isolated Operation from IPS/UPS programme). However, the RPP does not describe these agreements and programs.

The Lithuanian RPP states that ENMIN shall test the efficiency of the procedures established in the RPP, 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 RPP submitted by ENMIN 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 ENMIN has to be amended to include the missing information indicated above. Moreover, and given the current exceptional circumstances, the Commission recommends that ENMIN accelerate 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 ENMIN, 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 Lithuanian RPP explains the synchronous system and the countries involved in that system, as well as other connected Member States. 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.
- Considering the Baltic power systems plans to synchronise with the European continental grid by the end of 2025, the RPP should assess how the procedures and measures established in the RPP may be affected.
- 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 ENMIN 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 ENMIN do not comply with certain provisions of this Regulation.

The Commission requests ENMIN 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. The Commission urges ENMIN 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",⁷ while ensuring security of electricity supply. Furthermore, the Commission urges Lithuania 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* Lithuania 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.

⁷ COM(2022) 360 final

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. ENMIN 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, 3.11.2022

For the Commission
Kadri SIMSON
Member of the Commission