

This text is meant purely as a documentation tool and has no legal effect. The Union's institutions do not assume any liability for its contents. The authentic versions of the relevant acts, including their preambles, are those published in the Official Journal of the European Union and available in EUR-Lex. Those official texts are directly accessible through the links embedded in this document

► **B** REGULATION (EU) 2019/943 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 5 June 2019
on the internal market for electricity
(recast)
(Text with EEA relevance)
(OJ L 158, 14.6.2019, p. 54)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Regulation (EU) 2022/869 of the European Parliament and of the Council of 30 May 2022	L 152	45	3.6.2022
► <u>M2</u>	Regulation (EU) 2024/1747 of the European Parliament and of the Council of 13 June 2024	L 1747	1	26.6.2024

▼B**REGULATION (EU) 2019/943 OF THE
EUROPEAN PARLIAMENT AND OF THE COUNCIL****of 5 June 2019****on the internal market for electricity****(recast)****(Text with EEA relevance)****CHAPTER I****SUBJECT MATTER, SCOPE AND DEFINITIONS***Article 1***Subject matter and scope**

This Regulation aims to:

▼M2

- (a) set the basis for an efficient achievement of the objectives of the Energy Union and the objective to achieve climate neutrality by 2050 at the latest, in particular the climate and energy framework for 2030 by enabling market signals to be delivered for increased efficiency, higher share of renewable energy, security of supply, flexibility, system integration through multiple energy carriers, sustainability, decarbonisation and innovation;
- (b) set fundamental principles for well-functioning, integrated electricity markets, which allow all resource providers and electricity customers non-discriminatory market access, enable the development of forward electricity markets to allow suppliers and consumers to hedge or protect themselves against the risk of future volatility in electricity prices, empower and protect consumers, ensure competitiveness on the global market, enhance security of supply and flexibility through demand response, energy storage and other non-fossil flexibility solutions, ensure energy efficiency, facilitate aggregation of distributed demand and supply, and enable market and sectoral integration and market-based remuneration of electricity generated from renewable energy;

▼B

- (c) set fair rules for cross-border exchanges in electricity, thus enhancing competition within the internal market for electricity, taking into account the particular characteristics of national and regional markets, including the establishment of a compensation mechanism for cross-border flows of electricity, the setting of harmonised principles on cross-border transmission charges and the allocation of available capacities of interconnections between national transmission systems;
- (d) facilitate the emergence of a well-functioning and transparent wholesale market, contributing to a high level of security of electricity supply, and provide for mechanisms to harmonise the rules for cross-border exchanges in electricity;

▼M2

- (e) support long-term investment in renewable energy generation, flexibility and grids to enable consumers to make their energy bills affordable and less dependent from fluctuations of short-term electricity market prices, in particular fossil fuel prices in the medium to long-term;
- (f) lay down a framework for the adoption of measures to address electricity price crises.

▼B*Article 2***Definitions**

The following definitions apply:

- (1) ‘interconnector’ means a transmission line which crosses or spans a border between Member States and which connects the national transmission systems of the Member States;
- (2) ‘regulatory authority’ means a regulatory authority designated by each Member State pursuant to Article 57(1) of Directive (EU) 2019/944;
- (3) ‘cross-border flow’ means a physical flow of electricity on a transmission network of a Member State that results from the impact of the activity of producers, customers, or both, outside that Member State on its transmission network;
- (4) ‘congestion’ means a situation in which all requests from market participants to trade between network areas cannot be accommodated because they would significantly affect the physical flows on network elements which cannot accommodate those flows;
- (5) ‘new interconnector’ means an interconnector not completed by 4 August 2003;
- (6) ‘structural congestion’ means congestion in the transmission system that is capable of being unambiguously defined, is predictable, is geographically stable over time, and frequently reoccurs under normal electricity system conditions;
- (7) ‘market operator’ means an entity that provides a service whereby the offers to sell electricity are matched with bids to buy electricity;
- (8) ‘nominated electricity market operator’ or ‘NEMO’ means a market operator designated by the competent authority to carry out tasks related to single day-ahead or single intraday coupling;
- (9) ‘value of lost load’ means an estimation in euro/MWh, of the maximum electricity price that customers are willing to pay to avoid an outage;
- (10) ‘balancing’ means all actions and processes, in all timelines, through which transmission system operators ensure, in an ongoing manner, maintenance of the system frequency within a predefined stability range and compliance with the amount of reserves needed with respect to the required quality;

▼B

- (11) ‘balancing energy’ means energy used by transmission system operators to carry out balancing;
- (12) ‘balancing service provider’ means a market participant providing either or both balancing energy and balancing capacity to transmission system operators;
- (13) ‘balancing capacity’ means a volume of capacity that a balancing service provider has agreed to hold and in respect to which the balancing service provider has agreed to submit bids for a corresponding volume of balancing energy to the transmission system operator for the duration of the contract;
- (14) ‘balance responsible party’ means a market participant or its chosen representative responsible for its imbalances in the electricity market;
- (15) ‘imbalance settlement period’ means the time unit for which the imbalance of the balance responsible parties is calculated;
- (16) ‘imbalance price’ means the price, be it positive, zero or negative, in each imbalance settlement period for an imbalance in each direction;
- (17) ‘imbalance price area’ means the area in which an imbalance price is calculated;
- (18) ‘prequalification process’ means the process to verify the compliance of a provider of balancing capacity with the requirements set by the transmission system operators;
- (19) ‘reserve capacity’ means the amount of frequency containment reserves, frequency restoration reserves or replacement reserves that needs to be available to the transmission system operator;
- (20) ‘priority dispatch’ means, with regard to the self-dispatch model, the dispatch of power plants on the basis of criteria which are different from the economic order of bids and, with regard to the central dispatch model, the dispatch of power plants on the basis of criteria which are different from the economic order of bids and from network constraints, giving priority to the dispatch of particular generation technologies;
- (21) ‘capacity calculation region’ means the geographic area in which the coordinated capacity calculation is applied;

▼M2

- (22) ‘capacity mechanism’ means a measure to ensure the achievement of the necessary level of resource adequacy by remunerating resources for their availability, excluding measures relating to ancillary services or congestion management;

▼B

- (23) ‘high-efficiency cogeneration’ means cogeneration which meets the criteria laid down in Annex II to Directive 2012/27/EU of the European Parliament and of the Council ⁽¹⁾;

⁽¹⁾ Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

▼B

- (24) ‘demonstration project’ means a project which demonstrates a technology as a first of its kind in the Union and represents a significant innovation that goes well beyond the state of the art;
- (25) ‘market participant’ means a natural or legal person who buys, sells or generates electricity, who is engaged in aggregation or who is an operator of demand response or energy storage services, including through the placing of orders to trade, in one or more electricity markets, including in balancing energy markets;
- (26) ‘redispatching’ means a measure, including curtailment, that is activated by one or more transmission system operators or distribution system operators by altering the generation, load pattern, or both, in order to change physical flows in the electricity system and relieve a physical congestion or otherwise ensure system security;
- (27) ‘countertrading’ means a cross-zonal exchange initiated by system operators between two bidding zones to relieve physical congestion;
- (28) ‘power-generating facility’ means a facility that converts primary energy into electrical energy and which consists of one or more power-generating modules connected to a network;
- (29) ‘central dispatching model’ means a scheduling and dispatching model where the generation schedules and consumption schedules as well as dispatching of power-generating facilities and demand facilities, in reference to dispatchable facilities, are determined by a transmission system operator within an integrated scheduling process;
- (30) ‘self-dispatch model’ means a scheduling and dispatching model where the generation schedules and consumption schedules as well as dispatching of power-generating facilities and demand facilities are determined by the scheduling agents of those facilities;
- (31) ‘standard balancing product’ means a harmonised balancing product defined by all transmission system operators for the exchange of balancing services;
- (32) ‘specific balancing product’ means a balancing product different from a standard balancing product;
- (33) ‘delegated operator’ means an entity to whom specific tasks or obligations entrusted to a transmission system operator or nominated electricity market operator under this Regulation or other Union legal acts have been delegated by that transmission system operator or NEMO or have been assigned by a Member State or regulatory authority;
- (34) ‘customer’ means a customer as defined in point (1) of Article 2 of Directive (EU) 2019/944;

▼B

- (35) ‘final customer’ means final customer as defined in point (3) of Article 2 of Directive (EU) 2019/944;
- (36) ‘wholesale customer’ means a wholesale customer as defined in point (2) of Article 2 of Directive (EU) 2019/944;
- (37) ‘household customer’ means household customer as defined in point (4) of Article 2 of Directive (EU) 2019/944;
- (38) ‘small enterprise’ means small enterprise as defined in point (7) of Article 2 of Directive (EU) 2019/944;
- (39) ‘active customer’ means active customer as defined in point (8) of Article 2 of Directive (EU) 2019/944;
- (40) ‘electricity markets’ means electricity markets as defined in point (9) of Article 2 of Directive (EU) 2019/944;
- (41) ‘supply’ means supply as defined in point (12) of Article 2 of Directive (EU) 2019/944;
- (42) ‘electricity supply contract’ means electricity supply contract as defined in point (13) of Article 2 of Directive (EU) 2019/944;
- (43) ‘aggregation’ means aggregation as defined in point (18) of Article 2 of Directive (EU) 2019/944;
- (44) ‘demand response’ means demand response as defined in point (20) of Article 2 of Directive (EU) 2019/944;
- (45) ‘smart metering system’ means smart metering system as defined in point (23) of Article 2 of Directive (EU) 2019/944;
- (46) ‘interoperability’ means interoperability as defined in point (24) of Article 2 of Directive (EU) 2019/944;
- (47) ‘distribution’ means distribution as defined in point (28) of Article 2 of Directive (EU) 2019/944;
- (48) ‘distribution system operator’ means distribution system operator as defined in point (29) of Article 2 of Directive (EU) 2019/944;
- (49) ‘energy efficiency’ means energy efficiency as defined in point (30) of Article 2 of Directive (EU) 2019/944;
- (50) ‘energy from renewable sources’ or ‘renewable energy’ means energy from renewable sources as defined in point (31) of Article 2 of Directive (EU) 2019/944;
- (51) ‘distributed generation’ means distributed generation as defined in point (32) of Article 2 of Directive (EU) 2019/944;
- (52) ‘transmission’ means transmission as defined in point (34) of Article 2 of Directive (EU) 2019/944;
- (53) ‘transmission system operator’ means transmission system operator as defined in point (35) of Article 2 of Directive (EU) 2019/944;
- (54) ‘system user’ means system user as defined in point (36) of Article 2 of Directive (EU) 2019/944;
- (55) ‘generation’ means generation as defined in point (37) of Article 2 of Directive (EU) 2019/944;

▼B

- (56) ‘producer’ means producer as defined in point (38) of Article 2 of Directive (EU) 2019/944;
- (57) ‘interconnected system’ means interconnected system as defined in point (40) of Article 2 of Directive (EU) 2019/944;
- (58) ‘small isolated system’ means small isolated system as defined in point (42) of Article 2 of Directive (EU) 2019/944;
- (59) ‘small connected system’ means small connected system as defined in point (43) of Article 2 of Directive (EU) 2019/944;
- (60) ‘ancillary service’ means ancillary service as defined in point (48) of Article 2 of Directive (EU) 2019/944;
- (61) ‘non-frequency ancillary service’ means non-frequency ancillary service as defined in point (49) of Article 2 of Directive (EU) 2019/944;
- (62) ‘energy storage’ means energy storage as defined in point (59) of Article 2 of Directive (EU) 2019/944;
- (63) ‘regional coordination centre’ means regional coordination centre established pursuant to Article 35 of this Regulation;
- (64) ‘wholesale energy market’ means wholesale energy market as defined in point (6) of Article 2 of Regulation (EU) No 1227/2011 of the European Parliament and of the Council ⁽²⁾;
- (65) ‘bidding zone’ means the largest geographical area within which market participants are able to exchange energy without capacity allocation;
- (66) ‘capacity allocation’ means the attribution of cross-zonal capacity;
- (67) ‘control area’ means a coherent part of the interconnected system, operated by a single system operator and shall include connected physical loads and/or generation units if any;
- (68) ‘coordinated net transmission capacity’ means a capacity calculation method based on the principle of assessing and defining *ex ante* a maximum energy exchange between adjacent bidding zones;
- (69) ‘critical network element’ means a network element either within a bidding zone or between bidding zones taken into account in the capacity calculation process, limiting the amount of power that can be exchanged;
- (70) ‘cross-zonal capacity’ means the capability of the interconnected system to accommodate energy transfer between bidding zones;
- (71) ‘generation unit’ means a single electricity generator belonging to a production unit;

⁽²⁾ Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (OJ L 326, 8.12.2011, p. 1).

▼M2

- (72) ‘peak hour’ means an hour where, on the basis of the forecasts of transmission system operators and, where applicable, NEMOs, the gross electricity consumption or the gross consumption of electricity generated from sources other than renewable sources or the day-ahead wholesale electricity price is expected to be the highest, taking cross-zonal exchanges into account;
- (73) ‘peak shaving’ means the ability of market participants to reduce electricity consumption from the grid at peak hours at the request of the system operator;
- (74) ‘peak-shaving product’ means a market-based product by means of which market participants can provide peak shaving to system operators;
- (75) ‘regional virtual hub’ means a non-physical region covering more than one bidding zone for which a reference price is set on the basis of a methodology;
- (76) ‘two-way contract for difference’ means a contract between a power-generating facility operator and a counterpart, usually a public entity, that provides both minimum remuneration protection and a limit to excess remuneration;
- (77) ‘power purchase agreement’ or ‘PPA’ means a contract under which a natural or legal person agrees to purchase electricity from an electricity producer on a market basis;
- (78) ‘dedicated measurement device’ means a device linked to or embedded in an asset that provides demand response or flexibility services on the electricity market or to system operators;
- (79) ‘flexibility’ means the ability of an electricity system to adjust to the variability of generation and consumption patterns and to grid availability, across relevant market timeframes.

▼B

CHAPTER II

GENERAL RULES FOR THE ELECTRICITY MARKET

*Article 3***Principles regarding the operation of electricity markets**

Member States, regulatory authorities, transmission system operators, distribution system operators, market operators and delegated operators shall ensure that electricity markets are operated in accordance with the following principles:

- (a) prices shall be formed on the basis of demand and supply;
- (b) market rules shall encourage free price formation and shall avoid actions which prevent price formation on the basis of demand and supply;
- (c) market rules shall facilitate the development of more flexible generation, sustainable low carbon generation, and more flexible demand;

▼B

- (d) customers shall be enabled to benefit from market opportunities and increased competition on retail markets and shall be empowered to act as market participants in the energy market and the energy transition;
- (e) market participation of final customers and small enterprises shall be enabled by aggregation of generation from multiple power-generating facilities or load from multiple demand response facilities to provide joint offers on the electricity market and be jointly operated in the electricity system, in accordance with Union competition law;
- (f) market rules shall enable the decarbonisation of the electricity system and thus the economy, including by enabling the integration of electricity from renewable energy sources and by providing incentives for energy efficiency;
- (g) market rules shall deliver appropriate investment incentives for generation, in particular for long-term investments in a decarbonised and sustainable electricity system, energy storage, energy efficiency and demand response to meet market needs, and shall facilitate fair competition thus ensuring security of supply;
- (h) barriers to cross-border electricity flows between bidding zones or Member States and cross-border transactions on electricity markets and related services markets shall be progressively removed;
- (i) market rules shall provide for regional cooperation where effective;
- (j) safe and sustainable generation, energy storage and demand response shall participate on equal footing in the market, under the requirements provided for in the Union law;
- (k) all producers shall be directly or indirectly responsible for selling the electricity they generate;
- (l) market rules shall allow for the development of demonstration projects into sustainable, secure and low-carbon energy sources, technologies or systems which are to be realised and used to the benefit of society;
- (m) market rules shall enable the efficient dispatch of generation assets, energy storage and demand response;
- (n) market rules shall allow for entry and exit of electricity generation, energy storage and electricity supply undertakings based on those undertakings' assessment of the economic and financial viability of their operations;
- (o) in order to allow market participants to be protected against price volatility risks on a market basis, and mitigate uncertainty on future returns on investment, long-term hedging products shall be tradable on exchanges in a transparent manner and long-term electricity supply contracts shall be negotiable over the counter, subject to compliance with Union competition law;

▼B

- (p) market rules shall facilitate trade of products across the Union and regulatory changes shall take into account effects on both short-term and long-term forward and futures markets and products;
- (q) market participants shall have a right to obtain access to the transmission networks and distribution networks on objective, transparent and non-discriminatory terms.

*Article 4***Just transition**

The Commission shall support Member States that put in place a national strategy for the progressive reduction of existing coal and other solid fossil fuel generation and mining capacity through all available means to enable a just transition in regions affected by structural change. The Commission shall assist Member States in addressing the social and economic impacts of the clean energy transition.

The Commission shall work in close partnership with the stakeholders in coal and carbon-intensive regions, shall facilitate the access to and use of available funds and programmes, and shall encourage the exchange of good practices, including discussions on industrial roadmaps and reskilling needs.

*Article 5***Balance responsibility**

1. All market participants shall be responsible for the imbalances they cause in the system ('balance responsibility'). To that end, market participants shall either be balance responsible parties or shall contractually delegate their responsibility to a balance responsible party of their choice. Each balance responsible party shall be financially responsible for its imbalances and shall strive to be balanced or shall help the electricity system to be balanced.

2. Member States may provide derogations from balance responsibility only for:

- (a) demonstration projects for innovative technologies, subject to approval by the regulatory authority, provided that those derogations are limited to the time and extent necessary for achieving the demonstration purposes;
- (b) power-generating facilities using renewable energy sources with an installed electricity capacity of less than 400 kW;
- (c) installations benefitting from support approved by the Commission under Union State aid rules pursuant to Articles 107, 108 and 109 TFEU, and commissioned before 4 July 2019.

Member States may, without prejudice to Articles 107 and 108 TFEU, provide incentives to market participants which are fully or partly exempted from balancing responsibility to accept full balancing responsibility.

▼B

3. When a Member State provides a derogation in accordance with paragraph 2, it shall ensure that the financial responsibility for imbalances is fulfilled by another market participant.

4. For power-generating facilities commissioned from 1 January 2026, point (b) of paragraph 2 shall apply only to generating installations using renewable energy sources with an installed electricity capacity of less than 200 kW.

*Article 6***Balancing market**

1. Balancing markets, including prequalification processes, shall be organised in such a way as to:

- (a) ensure effective non-discrimination between market participants taking account of the different technical needs of the electricity system and the different technical capabilities of generation sources, energy storage and demand response;
- (b) ensure that services are defined in a transparent and technologically neutral manner and are procured in a transparent, market-based manner;
- (c) ensure non-discriminatory access to all market participants, individually or through aggregation, including for electricity generated from variable renewable energy sources, demand response and energy storage;
- (d) respect the need to accommodate the increasing share of variable generation, increased demand responsiveness and the advent of new technologies.

2. The price of balancing energy shall not be pre-determined in contracts for balancing capacity. Procurement processes shall be transparent in accordance with Article 40(4) of Directive (EU) 2019/944, while protecting the confidentiality of commercially sensitive information.

3. Balancing markets shall ensure operational security whilst allowing for maximum use and efficient allocation of cross-zonal capacity across timeframes in accordance with Article 17.

4. The settlement of balancing energy for standard balancing products and specific balancing products shall be based on marginal pricing (pay-as-cleared) unless all regulatory authorities approve an alternative pricing method on the basis of a joint proposal by all transmission system operators following an analysis demonstrating that that alternative pricing method is more efficient.

Market participants shall be allowed to bid as close to real time as possible, and balancing energy gate closure times shall not be before the intraday cross-zonal gate closure time.

▼B

Transmission system operators applying a central dispatching model may establish additional rules in accordance with the guideline on electricity balancing adopted on the basis of Article 6(11) of Regulation (EC) No 714/2009.

5. The imbalances shall be settled at a price that reflects the real-time value of energy.

6. Each imbalance price area shall be equal to a bidding zone, except in the case of a central dispatching model where an imbalance price area may constitute a part of a bidding zone.

7. The dimensioning of reserve capacity shall be performed by the transmission system operators and shall be facilitated at regional level.

8. The procurement of balancing capacity shall be performed by the transmission system operator and may be facilitated at a regional level. Reservation of cross-border capacity to that end may be limited. The procurement of balancing capacity shall be market-based and organised in such a way as to be non-discriminatory between market participants in the prequalification process in accordance with Article 40(4) of Directive (EU) 2019/944 whether market participants participate individually or through aggregation.

Procurement of balancing capacity shall be based on a primary market unless and to the extent that the regulatory authority has provided for a derogation to allow the use of other forms of market-based procurement on the grounds of a lack of competition in the market for balancing services. Derogations from the obligation to base the procurement of balancing capacity on use of primary markets shall be reviewed every three years.

9. The procurement of upward balancing capacity and downward balancing capacity shall be carried out separately, unless the regulatory authority approves a derogation from this principle on the basis that this would result in higher economic efficiency as demonstrated by an evaluation performed by the transmission system operator. Contracts for balancing capacity shall not be concluded more than one day before the provision of the balancing capacity and the contracting period shall be no longer than one day, unless and to the extent that the regulatory authority has approved the earlier contracting or longer contracting periods to ensure the security of supply or to improve economic efficiency.

Where a derogation is granted, for at least 40 % of the standard balancing products and a minimum of 30 % of all products used for balancing capacity, contracts for the balancing capacity shall be concluded for no more than one day before the provision of the balancing capacity and the contracting period shall be no longer than one day. The contracting of the remaining part of the balancing capacity shall be performed for a maximum of one month in advance of the provision of balancing capacity and shall have a maximum contractual period of one month.

10. At the request of the transmission system operator, the regulatory authority may decide to extend the contractual period of the remaining part of balancing capacity referred to in paragraph 9 to a maximum period of twelve months provided that such a decision is limited in time, and the positive effects in terms of lowering of costs for final customers exceed the negative impacts on the market. The request shall include:

▼B

- (a) the specific period during which the exemption would apply;
- (b) the specific volume of balancing capacity to which the exemption would apply;
- (c) an analysis of the impact of the exemption on the participation of balancing resources; and
- (d) a justification for the exemption demonstrating that such an exemption would lead to lower costs to final customers.

11. Notwithstanding paragraph 10, from 1 January 2026 contract periods shall not be longer than six months.

12. By 1 January 2028, regulatory authorities shall report to the Commission and ACER on the share of the total capacity covered by contracts with a duration or a procurement period of longer than one day.

13. Transmission system operators or their delegated operators shall publish, as close to real time as possible but with a delay after delivery of no more than 30 minutes, the current system balance of their scheduling areas, the estimated imbalance prices and the estimated balancing energy prices.

14. Transmission system operators may, where standard balancing products are not sufficient to ensure operational security or where some balancing resources cannot participate in the balancing market through standard balancing products, propose, and the regulatory authorities may approve, derogations from paragraphs 2 and 4 for specific balancing products which are activated locally without exchanging them with other transmission system operators.

Proposals for derogations shall include a description of measures proposed to minimise the use of specific products, subject to economic efficiency, a demonstration that the specific products do not create significant inefficiencies and distortions in the balancing market either inside or outside the scheduling area, as well as, where applicable, the rules and information for the process for converting the balancing energy bids from specific balancing products into balancing energy bids from standard balancing products.

*Article 7***Day-ahead and intraday markets****▼M2**

1. Transmission system operators and NEMOs shall jointly organise the management of the integrated day-ahead and intraday markets in accordance with Regulation (EU) 2015/1222. Transmission system operators and NEMOs shall cooperate at Union level or, where more appropriate, at a regional level in order to maximise the efficiency and effectiveness of Union electricity day-ahead and intraday trading. The obligation to cooperate shall be without prejudice to the application of Union competition law. In their functions relating to electricity trading, transmission system operators and NEMOs shall be subject to regulatory oversight by the regulatory authorities pursuant to Article 59 of

▼M2

Directive (EU) 2019/944 and by ACER pursuant to Articles 4 and 8 of Regulation (EU) 2019/942 and shall be subject to transparency obligations and effective supervision against market manipulation as laid down in the relevant provisions of Regulation (EU) No 1227/2011.

▼B

2. Day-ahead and intraday markets shall:

- (a) be organised in such a way as to be non-discriminatory;
- (b) maximise the ability of all market participants to manage imbalances;

▼M2

- (c) maximise the opportunities for all market participants to participate in cross-zonal and intra-zonal trade in a non-discriminatory manner and as close as possible to real time across and within all bidding zones;

- (ca) be organised in such a way as to ensure the sharing of liquidity between all NEMOs, at all times, both for cross-zonal and for intra-zonal trade. For the day-ahead market, from one hour before the gate closure time until the latest point in time where day-ahead trade is allowed, NEMOs shall submit all orders for day-ahead products and products with the same characteristics to the single day-ahead coupling on the one hand and shall not organise trading with day-ahead products or products with the same characteristics outside the single day-ahead coupling on the other. For the intraday market, from the single intraday coupling gate opening time until the latest point in time when intraday trading is allowed in a given bidding zone, NEMOs shall submit all orders for intraday products and products with same characteristics to the single intraday coupling on the one hand and shall not organise trading with intraday products or products with same characteristics outside the intraday coupling on the other. Those obligations shall apply to NEMOs, to undertakings which directly or indirectly exercise control over a NEMO, and to undertakings which are directly or indirectly controlled by a NEMO;

▼B

- (d) provide prices that reflect market fundamentals, including the real time value of energy, on which market participants are able to rely when agreeing on longer-term hedging products;
- (e) ensure operational security while allowing for maximum use of transmission capacity;

▼M2

- (f) be transparent and, where applicable, provide information by generation units while at the same time protecting the confidentiality of commercially sensitive information and ensuring trading occurs in an anonymous manner;

▼B

- (g) make no distinction between trades made within a bidding zone and across bidding zones; and
- (h) be organised in such a way as to ensure that all markets participants are able to access the market individually or through aggregation.

▼ **M2***Article 7a***Peak-shaving product**

1. Where a regional or Union-wide electricity price crisis is declared in accordance with Article 66a of Directive (EU) 2019/944, Member States may request system operators to propose the procurement of peak-shaving products in order to achieve a reduction of electricity demand during peak hours. Such procurement shall be limited to the duration set out in the implementing decision adopted pursuant to Article 66a(1) of Directive (EU) 2019/944.

2. Where a request is made pursuant to paragraph 1, system operators shall, after consulting stakeholders, submit a proposal setting out the dimensioning and conditions for the procurement and activation of the peak-shaving product to the regulatory authority of the Member State concerned for its approval.

3. The regulatory authority concerned shall assess the proposal for a peak-shaving product referred to in paragraph 2 as regards achieving a reduction of electricity demand and the impact on wholesale electricity price during peak hours. That assessment shall take into account the need for the peak-shaving product not to unduly distort the functioning of the electricity markets, and not to cause a redirection of demand response services towards peak-shaving products. On the basis of that assessment, the regulatory authority may request the system operator to amend its proposal.

4. The proposal for a peak-shaving product referred to in paragraph 2 shall comply with the following requirements:

- (a) the dimensioning of the peak-shaving product shall:
 - (i) be based on an analysis of the need for an additional service to ensure security of supply without endangering grid stability, of its impact on the market and of its expected costs and benefits;
 - (ii) take into account the forecast of demand, the forecast of electricity generated from renewable energy, the forecast of other sources of flexibility in the system, such as energy storage, and the wholesale price impact of the avoided dispatch; and
 - (iii) be limited to ensure that forecasted costs do not exceed the expected benefits of the peak-shaving product;
- (b) the procurement of a peak-shaving product shall be based on objective, transparent, market-based and non-discriminatory criteria, shall be limited to demand response and shall not exclude participating assets from accessing other markets;
- (c) the procurement of the peak-shaving product shall take place using competitive bidding, which can be continuous, with selection based on the lowest cost of meeting pre-defined technical and environmental criteria and shall allow the effective participation of consumers, directly or through aggregation;

▼ **M2**

- (d) the minimum bid size shall not be higher than 100 kW, including through aggregation;
- (e) contracts for a peak-shaving product shall not be concluded more than a week before its activation;
- (f) the activation of the peak-shaving product shall not reduce cross-zonal capacity;
- (g) the activation of the peak-shaving product shall take place before or within the day-ahead market time frame and may be done on the basis of a pre-defined electricity price;
- (h) the activation of the peak-shaving product shall not imply starting fossil fuel-based generation located behind the metering point, in order to avoid increasing greenhouse gas emissions.

5. The actual reduction of consumption resulting from the activation of a peak-shaving product shall be measured against a baseline, reflecting the expected electricity consumption without the activation of the peak-shaving product. Where a system operator procures a peak-shaving product, that operator shall develop a baseline methodology after consulting market participants, shall, where relevant, take into account the implementing acts adopted pursuant to Article 59(1), point (e), and shall submit it to the regulatory authority concerned for its approval.

6. The regulatory authority concerned shall approve the proposal of the system operators seeking to procure a peak-shaving product and the baseline methodology submitted in accordance with paragraphs 2 and 5 or shall request the system operators to amend the proposal or the baseline methodology where that proposal or that methodology does not meet the requirements laid down in paragraphs 2, 4 and 5.

7. By six months after the end of a regional or Union-wide electricity price crisis as referred to in paragraph 1, ACER shall, after consulting stakeholders, assess the impact of using peak-shaving products on the Union electricity market. That assessment shall take into account the need for peak-shaving products not to unduly distort the functioning of the electricity markets, and not to cause a redirection of demand response services towards peak-shaving products. ACER may issue recommendations that regulatory authorities shall take into account in their assessment pursuant to paragraph 3.

8. By 30 June 2025, ACER shall, after consulting stakeholders, assess the impact of developing peak-shaving products on the Union electricity market under normal market circumstances. That assessment shall take into account the need for peak-shaving products not to unduly distort the functioning of the electricity markets, and not to cause a redirection of demand response services towards peak-shaving products. On the basis of that assessment, the Commission may submit a legislative proposal to amend this Regulation in order to introduce peak-shaving products outside regional or Union-wide electricity price crisis situations.

▼ **M2***Article 7b***Dedicated measurement device**

1. Without prejudice to Article 19 of Directive (EU) 2019/944, transmission system operators, distribution system operators and relevant market participants, including independent aggregators, may use, upon the consent of the final customer, data from dedicated measurement devices for the observability and settlement of demand response and flexibility services, including from energy storage facilities.

For the purposes of this Article, the use of data from dedicated measurement devices shall comply with Articles 23 and 24 of Directive (EU) 2019/944 and other relevant Union law, including data protection and privacy law, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽³⁾. Where such data are used for research purposes, information shall be aggregated and anonymised.

2. Where a final customer does not have a smart meter installed or where the smart meter of a final customer does not deliver the necessary data to provide demand response or flexibility services, including through an independent aggregator, transmission system operators and distribution system operators shall accept the data from a dedicated measurement device, where available, for the settlement of demand response and flexibility services, including energy storage, and shall not discriminate against that final customer in their procurement of flexibility services. That obligation shall apply subject to compliance with the rules and requirements established by the Member States pursuant to paragraph 3.

3. Member States shall establish the rules and requirements for a dedicated measurement device data validation process to check and ensure the quality and consistency of the relevant data, and interoperability, in accordance with Articles 23 and 24 of Directive (EU) 2019/944 and other relevant Union law.

▼ **B***Article 8***Trade on day-ahead and intraday markets**▼ **M2**

1. NEMOs shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time. From 1 January 2026, the intraday cross-zonal gate closure time shall not be more than 30 minutes ahead of real time.

⁽³⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

▼ **M2**

1a. The regulatory authority concerned may, at the request of the transmission system operator concerned, grant a derogation from the requirement laid down in paragraph 1 until 1 January 2029. The transmission system operator shall submit the request to the regulatory authority concerned. That request shall include:

- (a) an impact assessment, taking into account feedback from NEMOs and market participants concerned, demonstrating the negative impact of such a measure on the security of supply in the national electricity system, cost-efficiency, including in relation to existing balancing platforms in accordance with Regulation (EU) 2017/2195, on the integration of renewable energy and on greenhouse gas emissions; and
- (b) an action plan aiming to shorten the intraday cross-zonal gate closure time to 30 minutes ahead of real time by 1 January 2029.

1b. The regulatory authority may, at the request of the transmission system operator concerned, grant a further derogation from the requirement laid down in paragraph 1 by up to two-and-a-half years from the date of expiry of the period referred to in paragraph 1a. The transmission system operator concerned shall submit the request to the regulatory authority concerned, to the ENTSO for Electricity and to ACER by 30 June 2028. That request shall include:

- (a) a new impact assessment, taking into account feedback from market participants and NEMOs, justifying the need for a further derogation, based on risks to the security of supply in the national electricity system, cost-efficiency, the integration of renewable energy, and greenhouse gas emissions; and
- (b) a revised action plan to shorten the intraday cross-zonal gate closure time to 30 minutes ahead of real time by the date for which extension is requested and no later than the date requested for the derogation.

ACER shall issue an opinion about the cross-border impact of a further derogation within six months of receipt of a request for such a derogation. The regulatory authority concerned shall take that opinion into account before deciding upon a request for further derogation.

1c. By 1 December 2027, the Commission shall, after consulting NEMOs, ENTSO for Electricity, ACER and relevant stakeholders, submit a report to the European Parliament and to the Council assessing the impact of the implementation of the decreasing of the cross-zonal gate closure time established pursuant to this Article, the costs and benefits, the feasibility and practical solutions towards further decreasing it in order to allow market participants to trade energy as close to real time as possible. The report shall consider the impact on the electricity system security, the cost-efficiency, the benefits to the integration of renewable energy and to the reduction of greenhouse gas emissions.

▼B

2. NEMOs shall provide market participants with the opportunity to trade in energy in time intervals which are at least as short as the imbalance settlement period for both day-ahead and intraday markets.

▼M2

3. NEMOs shall provide products for trading in day-ahead and intraday markets which are sufficiently small in size, with minimum bid sizes of 100 kW or less, to allow for the effective participation of demand response, energy storage and small-scale renewables including direct participation by customers, as well as through aggregation.

▼B

4. By 1 January 2021, the imbalance settlement period shall be 15 minutes in all scheduling areas, unless regulatory authorities have granted a derogation or an exemption. Derogations may be granted only until 31 December 2024.

From 1 January 2025, the imbalance settlement period shall not exceed 30 minutes where an exemption has been granted by all the regulatory authorities within a synchronous area.

▼M2*Article 9***Forward markets**

1. In accordance with Regulation (EU) 2016/1719, transmission system operators shall issue long-term transmission rights or have equivalent measures in place to allow market participants, including owners of power-generating facilities using renewable energy, to hedge price risks, unless an assessment of the forward market on the bidding zone borders performed by the competent regulatory authorities shows that there are sufficient hedging opportunities in the bidding zones concerned.

2. Long-term transmission rights shall be allocated, on a regular basis, in a transparent, market based and non-discriminatory manner through a single allocation platform. The frequency of allocation and the maturities of the long-term cross-zonal capacity shall support the efficient functioning of the Union's forward markets.

3. The design of the Union's forward markets shall comprise the necessary tools to improve the ability of market participants to hedge price risks in the internal electricity market.

4. By 17 January 2026, the Commission shall, after consulting relevant stakeholders, carry out an assessment of the impact of possible measures to achieve the objective referred to in paragraph 3. That impact assessment shall, inter alia, cover:

- (a) possible changes to the frequency of allocation for long-term transmission rights;
- (b) possible changes to the maturities of long-term transmission rights, in particular maturities extended up to at least three years;

▼ **M2**

- (c) possible changes to the nature of long-term transmission rights;
- (d) ways to strengthen the secondary market; and
- (e) the possible introduction of regional virtual hubs for the forward markets.

5. As regards regional virtual hubs for the forward markets, the impact assessment carried out pursuant to paragraph 4 shall cover the following:

- (a) the adequate geographical scope of the regional virtual hubs, including the bidding zones that would constitute those hubs and specific situations of bidding zones belonging to two or more virtual hubs, aiming to maximise the price correlation between the reference prices and the prices of the bidding zones constituting regional virtual hubs;
- (b) the level of electricity interconnectivity of Member States, in particular of those Member States below the electricity interconnection targets for 2020 and 2030 laid down in Article 4, point (d) (1), of Regulation (EU) 2018/1999 of the European Parliament and of the Council ⁽⁴⁾;
- (c) the methodology for the calculation of the reference prices for the regional virtual hubs for the forward markets, aiming to maximise the price correlation between the reference price and the prices of the bidding zones constituting a regional virtual hub;
- (d) the possibility for bidding zones to form part of more than one regional virtual hub;
- (e) the ways to maximise trading opportunities for hedging products referencing the regional virtual hubs for the forward markets as well as for long term transmission rights from bidding zones to regional virtual hubs;
- (f) the ways to ensure that the single allocation platform referred to in paragraph 2 offers allocation and facilitates the trading of long-term transmission rights;
- (g) the implications of pre-existing intergovernmental agreements and rights thereunder.

6. On the basis of the outcome of the impact assessment referred to in paragraph 4 of this Article, the Commission shall, by 17 July 2026, adopt an implementing act to further specify measures and tools to achieve the objectives referred to in in paragraph 3 of this Article and the precise features of those measures and tools. That implementing act shall be adopted in accordance with the examination procedure referred to Article 67(2).

⁽⁴⁾ Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).

▼ **M2**

7. The single allocation platform established in accordance with Regulation (EU) 2016/1719 shall act as an entity offering allocation and facilitating the trading of long-term transmission rights on behalf of transmission system operators. It shall have a legal form as referred to in Annex II to Directive (EU) 2017/1132 of the European Parliament and of the Council ⁽⁵⁾.

8. Where a competent regulatory authority considers that there are insufficient hedging opportunities available for market participants, it may, after consulting the competent authorities designated pursuant to Article 67 of Directive 2014/65/EU of the European Parliament and of the Council ⁽⁶⁾ where the forward markets concern financial instruments as defined in Article 4(1), point (15), of that Directive, require power exchanges or transmission system operators to implement additional measures, such as market-making activities, to improve the liquidity of the forward markets.

9. Subject to compliance with Union competition law and with Regulations (EU) No 648/2012 ⁽⁷⁾ and (EU) No 600/2014 ⁽⁸⁾ of the European Parliament and of the Council and Directive 2014/65/EU, market operators may develop forward hedging products, including long-term forward hedging products, to provide market participants, including owners of power-generating facilities using renewable energy sources, with appropriate possibilities for hedging financial risks against price fluctuations. Member States shall not require that such hedging activity may be limited to trades within a Member State or bidding zone.

▼ **B***Article 10***Technical bidding limits**

1. There shall be neither a maximum nor a minimum limit to the wholesale electricity price. This provision shall apply, inter alia, to bidding and clearing in all timeframes and shall include balancing energy and imbalance prices, without prejudice to the technical price limits which may be applied in the balancing timeframe and in the day-ahead and intraday timeframes in accordance with paragraph 2.

⁽⁵⁾ Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (OJ L 169, 30.6.2017, p. 46).

⁽⁶⁾ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

⁽⁷⁾ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

⁽⁸⁾ Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).

▼B

2. NEMOs may apply harmonised limits on maximum and minimum clearing prices for day-ahead and intraday timeframes. Those limits shall be sufficiently high so as not to unnecessarily restrict trade, shall be harmonised for the internal market and shall take into account the maximum value of lost load. NEMOs shall implement a transparent mechanism to adjust automatically the technical bidding limits in due time in the event that the set limits are expected to be reached. The adjusted higher limits shall remain applicable until further increases under that mechanism are required.

3. Transmission system operators shall not take any measures for the purpose of changing wholesale prices.

4. Regulatory authorities or, where a Member State has designated another competent authority for that purpose, such designated competent authorities, shall identify policies and measures applied within their territory that could contribute to indirectly restricting wholesale price formation, including limiting bids relating to the activation of balancing energy, capacity mechanisms, measures by the transmission system operators, measures intended to challenge market outcomes, or to prevent the abuse of dominant positions or inefficiently defined bidding zones.

5. Where a regulatory authority or designated competent authority has identified a policy or measure which could serve to restrict wholesale price formation it shall take all appropriate actions to eliminate or, if not possible, to mitigate the impact of that policy or measure on bidding behaviour. Member States shall provide a report to the Commission by 5 January 2020 detailing the measures and actions they have taken or intend to take.

*Article 11***Value of lost load**

1. By 5 July 2020 where required for the purpose of setting a reliability standard in accordance with Article 25 regulatory authorities or, where a Member State has designated another competent authority for that purpose, such designated competent authorities shall determine a single estimate of the value of lost load for their territory. That estimate shall be made publically available. Regulatory authorities or other designated competent authorities may determine different estimates per bidding zone if they have more than one bidding zone in their territory. Where a bidding zone consists of territories of more than one Member State, the concerned regulatory authorities or other designated competent authorities shall determine a single estimate of the value of lost load for that bidding zone. In determining the single estimate of the value of lost load, regulatory authorities or other designated competent authorities shall apply the methodology referred to in Article 23(6).

2. Regulatory authorities and designated competent authorities shall update their estimate of the value of lost load at least every five years, or earlier where they observe a significant change.



Article 12

Dispatching of generation and demand response

1. The dispatching of power-generating facilities and demand response shall be non-discriminatory, transparent and, unless otherwise provided under paragraphs 2 to 6, market based.

2. Without prejudice to Articles 107, 108 and 109 TFEU, Member States shall ensure that when dispatching electricity generating installations, system operators shall give priority to generating installations using renewable energy sources to the extent permitted by the secure operation of the national electricity system, based on transparent and non-discriminatory criteria and where such power-generating facilities are either:

- (a) power-generating facilities that use renewable energy sources and have an installed electricity capacity of less than 400 kW; or
- (b) demonstration projects for innovative technologies, subject to approval by the regulatory authority, provided that such priority is limited to the time and extent necessary for achieving the demonstration purposes.

3. A Member State may decide not to apply priority dispatch to power-generating facilities as referred to in point (a) of paragraph 2 with a start of operation at least six months after that decision, or to apply a lower minimum capacity than that set out under point (a) of paragraph 2, provided that:

- (a) it has well-functioning intraday and other wholesale and balancing markets and that those markets are fully accessible to all market participants in accordance with this Regulation;
- (b) redispatching rules and congestion management are transparent to all market participants;
- (c) the national contribution of the Member State towards the Union's binding overall target for share of energy from renewable sources under Article 3(2) of Directive (EU) 2018/2001 of the European Parliament and of the Council⁽⁹⁾ and point (a)(2) of Article 4 of Regulation (EU) 2018/1999 of the European Parliament and of the Council⁽¹⁰⁾ is at least equal to the corresponding result of the formula set out in Annex II to Regulation (EU) 2018/1999 and the Member State's share of energy from renewable sources is not below its reference points under point (a)(2) of Article 4 of Regulation (EU) 2018/1999, or alternatively, the Member State's share of energy from renewable sources in gross final electricity consumption is at least 50 %;

⁽⁹⁾ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

⁽¹⁰⁾ Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).

▼B

- (d) the Member State has notified the planned derogation to the Commission setting out in detail how the conditions set out under points (a), (b) and (c) are fulfilled; and
- (e) the Member State has published the planned derogation, including the detailed reasoning for the granting of that derogation, taking due account of the protection of commercially sensitive information where required.

Any derogation shall avoid retroactive changes that affect generating installations already benefiting from priority dispatch, notwithstanding any agreement between a Member State and the operator of a generating installation on a voluntary basis.

Without prejudice to Articles 107, 108 and 109 TFEU, Member States may provide incentives to installations eligible for priority dispatch to voluntarily give up priority dispatch.

4. Without prejudice to Articles 107, 108 and 109 TFEU, Member States may provide for priority dispatch for electricity generated in power-generating facilities using high-efficiency cogeneration with an installed electricity capacity of less than 400 kW.

5. For power-generating facilities commissioned as from 1 January 2026, point (a) of paragraph 2 shall apply only to power-generating facilities that use renewable energy sources and have an installed electricity capacity of less than 200 kW.

6. Without prejudice to contracts concluded before 4 July 2019, power-generating facilities that use renewable energy sources or high-efficiency cogeneration and were commissioned before 4 July 2019 and, when commissioned, were subject to priority dispatch under Article 15(5) of Directive 2012/27/EU or Article 16(2) of Directive 2009/28/EC of the European Parliament and of the Council ⁽¹¹⁾ shall continue to benefit from priority dispatch. Priority dispatch shall no longer apply to such power-generating facilities from the date on which the power-generating facility becomes subject to significant modifications, which shall be deemed to be the case at least where a new connection agreement is required or where the generation capacity of the power-generating facility is increased.

7. Priority dispatch shall not endanger the secure operation of the electricity system, shall not be used as a justification for curtailment of cross-zonal capacities beyond what is provided for in Article 16 and shall be based on transparent and non-discriminatory criteria.

Article 13

Redispatching

1. The redispatching of generation and redispatching of demand response shall be based on objective, transparent and non-discriminatory criteria. It shall be open to all generation technologies, all energy storage and all demand response, including those located in other Member States unless technically not feasible.

⁽¹¹⁾ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009, p. 16).

▼B

2. The resources that are redispatched shall be selected from among generating facilities, energy storage or demand response using market-based mechanisms and shall be financially compensated. Balancing energy bids used for redispatching shall not set the balancing energy price.

3. Non-market-based redispatching of generation, energy storage and demand response may only be used where:

- (a) no market-based alternative is available;
- (b) all available market-based resources have been used;
- (c) the number of available power generating, energy storage or demand response facilities is too low to ensure effective competition in the area where suitable facilities for the provision of the service are located; or
- (d) the current grid situation leads to congestion in such a regular and predictable way that market-based redispatching would lead to regular strategic bidding which would increase the level of internal congestion and the Member State concerned either has adopted an action plan to address this congestion or ensures that minimum available capacity for cross-zonal trade is in accordance with Article 16(8).

4. The transmission system operators and distribution system operators shall report at least annually to the competent regulatory authority, on:

- (a) the level of development and effectiveness of market-based redispatching mechanisms for power generating, energy storage and demand response facilities;
- (b) the reasons, volumes in MWh and type of generation source subject to redispatching;
- (c) the measures taken to reduce the need for the downward redispatching of generating installations using renewable energy sources or high-efficiency cogeneration in the future including investments in digitalisation of the grid infrastructure and in services that increase flexibility.

The regulatory authority shall submit the report to ACER and shall publish a summary of the data referred to in points (a), (b) and (c) of the first subparagraph together with recommendations for improvement where necessary.

5. Subject to requirements relating to the maintenance of the reliability and safety of the grid, based on transparent and non-discriminatory criteria established by the regulatory authorities, transmission system operators and distribution system operators shall:

▼B

- (a) guarantee the capability of transmission networks and distribution networks to transmit electricity produced from renewable energy sources or high-efficiency cogeneration with minimum possible redispatching, which shall not prevent network planning from taking into account limited redispatching where the transmission system operator or distribution system operator is able to demonstrate in a transparent way that doing so is more economically efficient and does not exceed 5 % of the annual generated electricity in installations which use renewable energy sources and which are directly connected to their respective grid, unless otherwise provided by a Member State in which electricity from power-generating facilities using renewable energy sources or high-efficiency cogeneration represents more than 50 % of the annual gross final consumption of electricity;
- (b) take appropriate grid-related and market-related operational measures in order to minimise the downward redispatching of electricity produced from renewable energy sources or from high-efficiency cogeneration;
- (c) ensure that their networks are sufficiently flexible so that they are able to manage them.

6. Where non-market-based downward redispatching is used, the following principles shall apply:

- (a) power-generating facilities using renewable energy sources shall only be subject to downward redispatching if no other alternative exists or if other solutions would result in significantly disproportionate costs or severe risks to network security;
- (b) electricity generated in a high-efficiency cogeneration process shall only be subject to downward redispatching if, other than downward redispatching of power-generating facilities using renewable energy sources, no other alternative exists or if other solutions would result in disproportionate costs or severe risks to network security;
- (c) self-generated electricity from generating installations using renewable energy sources or high-efficiency cogeneration which is not fed into the transmission or distribution network shall not be subject to downward redispatching unless no other solution would resolve network security issues;
- (d) downward redispatching under points (a), (b) and (c) shall be duly and transparently justified. The justification shall be included in the report under paragraph 3.

7. Where non-market based redispatching is used, it shall be subject to financial compensation by the system operator requesting the redispatching to the operator of the redispatched generation, energy storage or demand response facility except in the case of producers that have accepted a connection agreement under which there is no guarantee of firm delivery of energy. Such financial compensation shall be at least equal to the higher of the following elements or a combination of both if applying only the higher would lead to an unjustifiably low or an unjustifiably high compensation:

- (a) additional operating cost caused by the redispatching, such as additional fuel costs in the case of upward redispatching, or backup heat provision in the case of downward redispatching of power-generating facilities using high-efficiency cogeneration;

▼B

- (b) net revenues from the sale of electricity on the day-ahead market that the power-generating, energy storage or demand response facility would have generated without the redispatching request; where financial support is granted to power-generating, energy storage or demand response facilities based on the electricity volume generated or consumed, financial support that would have been received without the redispatching request shall be deemed to be part of the net revenues.

CHAPTER III

NETWORK ACCESS AND CONGESTION MANAGEMENT

SECTION 1

*Capacity Allocation**Article 14***Bidding zone review**

1. Member States shall take all appropriate measures to address congestions. Bidding zone borders shall be based on long-term, structural congestions in the transmission network. Bidding zones shall not contain such structural congestions unless they have no impact on neighbouring bidding zones, or, as a temporary exemption, their impact on neighbouring bidding zones is mitigated through the use of remedial actions and those structural congestions do not lead to reductions of cross-zonal trading capacity in accordance with the requirements of Article 16. The configuration of bidding zones in the Union shall be designed in such a way as to maximise economic efficiency and to maximise cross-zonal trading opportunities in accordance with Article 16, while maintaining security of supply.

2. Every three years, the ENTSO for Electricity shall report on structural congestions and other major physical congestions between and within bidding zones, including the location and frequency of such congestions, in accordance with the capacity allocation and congestion management guideline adopted on the basis of Article 18 (5) of Regulation (EC) No 714/2009. That report shall contain an assessment of whether the cross-zonal trade capacity reached the linear trajectory pursuant to Article 15 or the minimum capacity pursuant to Article 16 of this Regulation.

3. In order to ensure an optimal configuration of bidding zones, a bidding zone review shall be carried out. That review shall identify all structural congestions and shall include an analysis of different configurations of bidding zones in a coordinated manner with the involvement of affected stakeholders from all relevant Member States, in accordance with the capacity allocation and congestion management guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009. Current bidding zones shall be assessed on the basis of their ability to create a reliable market environment, including for flexible generation and load capacity, which is crucial to avoiding grid bottlenecks, balancing electricity demand and supply, securing the long-term security of investments in network infrastructure.

▼B

4. For the purposes of this Article and of Article 15 of this Regulation, relevant Member States, transmission system operators or regulatory authorities are those Member States, transmission system operators or regulatory authorities participating in the review of the bidding zone configuration and also to those in the same capacity calculation region pursuant to the capacity allocation and congestion management guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009.

5. By 5 October 2019 all relevant transmission system operators shall submit a proposal for the methodology and assumptions that are to be used in the bidding zone review process and for the alternative bidding zone configurations to be considered to the relevant regulatory authorities for approval. The relevant regulatory authorities shall take a unanimous decision on the proposal within 3 months of submission of the proposal. Where the regulatory authorities are unable to reach a unanimous decision on the proposal within that time frame, ACER shall, within an additional three months, decide on the methodology and assumptions and the alternative bidding zone configurations to be considered. The methodology shall be based on structural congestions which are not expected to be overcome within the following three years, taking due account of tangible progress on infrastructure development projects that are expected to be realised within the following three years.

6. On the basis of the methodology and assumptions approved pursuant to paragraph 5, the transmission system operators participating in the bidding zone review shall submit a joint proposal to the relevant Member States or their designated competent authorities to amend or maintain the bidding zone configuration no later than 12 months after approval of the methodology and assumptions pursuant to paragraph 5. Other Member States, Energy Community Contracting Parties or other third countries sharing the same synchronous area with any relevant Member State may submit comments.

7. Where structural congestion has been identified in the report pursuant to paragraph 2 of this Article or in the bidding zone review pursuant to this Article or by one or more transmission system operators in their control areas in a report approved by the competent regulatory authority, the Member State with identified structural congestion shall, in cooperation with its transmission system operators, decide, within six months of receipt of the report, either to establish national or multinational action plans pursuant to Article 15, or to review and amend its bidding zone configuration. Those decisions shall be immediately notified to the Commission and to ACER.

8. For those Member States that have opted to amend the bidding zone configuration pursuant to paragraph 7, the relevant Member States shall reach a unanimous decision within six months of the notification referred to in paragraph 7. Other Member States may submit comments to the relevant Member States, who should take account of those comments when reaching their decision. The decision shall be reasoned and shall be notified to the Commission and ACER. In the event that the relevant Member States fail to reach a unanimous decision within those six months, they shall immediately notify the Commission thereof. As a measure of last resort, the Commission after consulting ACER shall adopt a decision whether to amend or maintain the bidding zone configuration in and between those Member States by six months after receipt of such a notification.

▼B

9. Member States and the Commission shall consult relevant stakeholders before adopting a decision under this Article.

10. Any decision adopted under this Article shall specify the date of implementation of any changes. That implementation date shall balance the need for expeditiousness with practical considerations, including forward trade of electricity. The decision may establish appropriate transitional arrangements.

11. Where further bidding zone reviews are launched under the capacity allocation and congestion management guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009, this Article shall apply.

*Article 15***Action plans**

1. Following the adoption of a decision pursuant to Article 14(7), the Member State with identified structural congestion shall develop an action plan in cooperation with its regulatory authority. That action plan shall contain a concrete timetable for adopting measures to reduce the structural congestions identified within four years of the adoption of the decision pursuant to Article 14(7).

2. Irrespective of the concrete progress of the action plan, Member States shall ensure that without prejudice to derogations granted under Article 16(9) or deviations under Article 16(3), the cross-zonal trade capacity is increased on an annual basis until the minimum capacity provided for in Article 16(8) is reached. That minimum capacity shall be reached by 31 December 2025.

Those annual increases shall be achieved by means of a linear trajectory. The starting point of that trajectory shall be either the capacity allocated at the border or on a critical network element in the year before adoption of the action plan or the average during the three years before adoption of the action plan, whichever is higher. Member States shall ensure that, during the implementation of their action plans the capacity made available for cross-zonal trade to be compliant with Article 16(8) is at least equal to the values of the linear trajectory, including by use of remedial actions in the capacity calculation region.

3. The cost of the remedial actions necessary to achieve the linear trajectory referred to in paragraph 2 or make available cross-zonal capacity at the borders or on critical network elements concerned by the action plan shall be borne by the Member State or Member States implementing the action plan.

4. On an annual basis, during the implementation of the action plan and within six months of its expiry, the relevant transmission system operators shall assess for the previous 12 months whether the available cross-border capacity has reached the linear trajectory or, from 1 January 2026, the minimum capacities provided for in Article 16(8) have been achieved. They shall submit their assessments to ACER and to the relevant regulatory authorities. Before drafting the report, each transmission system operator shall submit its contribution to the report, including all the relevant data, to its regulatory authority for approval.

▼B

5. For those Member States for which the assessments referred to in paragraph 4 demonstrate that a transmission system operator has not complied with the linear trajectory, the relevant Member States shall, within six months of receipt of the assessment report referred to in paragraph 4, decide unanimously whether to amend or maintain the bidding zone configuration within and between those Member States. In their decision, the relevant Member States should take account of any comments submitted by other Member States. The relevant Member States' decision shall be substantiated and shall be notified to the Commission and to ACER.

The relevant Member States shall notify the Commission immediately if they fail to reach a unanimous decision within the timeframe laid down. Within six months of receipt of such notification, the Commission, as a last resort and after consulting ACER and the relevant stakeholders shall adopt a decision whether to amend or maintain the bidding zone configuration in and between those Member States.

6. Six months before the expiry of the action plan, the Member State with identified structural congestion shall decide whether to address remaining congestion by amending its bidding zone or whether to address remaining internal congestion with remedial actions for which it shall cover the costs.

7. Where no action plan is established within six months of identification of structural congestion pursuant to Article 14(7), the relevant transmission system operators shall, within 12 months of identification of such structural congestion, assess whether the available cross-border capacity has reached the minimum capacities provided for in Article 16 (8) during the previous 12 months and shall submit an assessment report to the relevant regulatory authorities and to ACER.

Before drafting the report, each transmission system operator shall send its contribution to the report, including all relevant data, to its national regulatory authority for approval. Where the assessment demonstrates that a transmission system operator has not complied with the minimum capacity, the decision-making process laid down in paragraph 5 of this Article shall apply.

Article 16

General principles of capacity allocation and congestion management

1. Network congestion problems shall be addressed with non-discriminatory market-based solutions which give efficient economic signals to the market participants and transmission system operators involved. Network congestion problems shall be solved by means of non-transaction-based methods, namely methods that do not involve a selection between the contracts of individual market participants. When taking operational measures to ensure that its transmission system remains in the normal state, the transmission system operator shall take into account the effect of those measures on neighbouring control areas and coordinate such measures with other affected transmission system operators as provided for in Regulation (EU) 2015/1222.

▼B

2. Transaction curtailment procedures shall be used only in emergency situations, namely where the transmission system operator must act in an expeditious manner and redispatching or countertrading is not possible. Any such procedure shall be applied in a non-discriminatory manner. Except in cases of force majeure, market participants that have been allocated capacity shall be compensated for any such curtailment.

3. Regional coordination centres shall carry out coordinated capacity calculation in accordance with paragraphs 4 and 8 of this Article, as provided for in point (a) of Article 37(1) and in Article 42(1).

Regional coordination centres shall calculate cross-zonal capacities respecting operational security limits using data from transmission system operators including data on the technical availability of remedial actions, not including load shedding. Where regional coordination centres conclude that those available remedial actions in the capacity calculation region or between capacity calculation regions are not sufficient to reach the linear trajectory pursuant to Article 15 (2) or the minimum capacities provided for in paragraph 8 of this Article while respecting operational security limits, they may, as a measure of last resort, set out coordinated actions reducing the cross-zonal capacities accordingly. Transmission system operators may deviate from coordinated actions in respect of coordinated capacity calculation and coordinated security analysis only in accordance with Article 42(2).

By 3 months after the entry into operation of the regional coordination centres pursuant to Article 35(2) of this Regulation and every three months thereafter, the regional coordination centres shall submit a report to the relevant regulatory authorities and to ACER on any reduction of capacity or deviation from coordinated actions pursuant to the second subparagraph and shall assess the incidences and make recommendations, if necessary, on how to avoid such deviations in the future. If ACER concludes that the prerequisites for a deviation pursuant to this paragraph are not fulfilled or are of a structural nature, ACER shall submit an opinion to the relevant regulatory authorities and to the Commission. The competent regulatory authorities shall take appropriate action against transmission system operators or regional coordination centres pursuant to Article 59 or 62 of Directive (EU) 2019/944 if the prerequisites for a deviation pursuant to this paragraph were not fulfilled.

Deviations of a structural nature shall be addressed in an action plan referred to in Article 14(7) or in an update of an existing action plan.

4. The maximum level of capacity of the interconnections and the transmission networks affected by cross-border capacity shall be made available to market participants complying with the safety standards of secure network operation. Counter-trading and redispatch, including cross-border redispatch, shall be used to maximise available capacities to reach the minimum capacity provided for in paragraph 8. A coordinated and non-discriminatory process for cross-border remedial actions shall be applied to enable such maximisation, following the implementation of a redispatching and counter-trading cost-sharing methodology.

▼B

5. Capacity shall be allocated by means of explicit capacity auctions or implicit auctions including both capacity and energy. Both methods may coexist on the same interconnection. For intraday trade, continuous trading, which may be complemented by auctions, shall be used.

6. In the case of congestion, the valid highest value bids for network capacity, whether implicit or explicit, offering the highest value for the scarce transmission capacity in a given timeframe, shall be successful. Other than in the case of new interconnectors which benefit from an exemption under Article 7 of Regulation (EC) No 1228/2003, Article 17 of Regulation (EC) No 714/2009 or Article 63 of this Regulation, establishing reserve prices in capacity-allocation methods shall be prohibited.

7. Capacity shall be freely tradable on a secondary basis, provided that the transmission system operator is informed sufficiently in advance. Where a transmission system operator refuses any secondary trade (transaction), this shall be clearly and transparently communicated and explained to all the market participants by that transmission system operator and notified to the regulatory authority.

8. Transmission system operators shall not limit the volume of interconnection capacity to be made available to market participants as a means of solving congestion inside their own bidding zone or as a means of managing flows resulting from transactions internal to bidding zones. Without prejudice to the application of the derogations under paragraphs 3 and 9 of this Article and to the application of Article 15(2), this paragraph shall be considered to be complied with where the following minimum levels of available capacity for cross-zonal trade are reached:

- (a) for borders using a coordinated net transmission capacity approach, the minimum capacity shall be 70 % of the transmission capacity respecting operational security limits after deduction of contingencies, as determined in accordance with the capacity allocation and congestion management guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009;
- (b) for borders using a flow-based approach, the minimum capacity shall be a margin set in the capacity calculation process as available for flows induced by cross-zonal exchange. The margin shall be 70 % of the capacity respecting operational security limits of internal and cross-zonal critical network elements, taking into account contingencies, as determined in accordance with the capacity allocation and congestion management guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009.

The total amount of 30 % can be used for the reliability margins, loop flows and internal flows on each critical network element.

9. At the request of the transmission system operators in a capacity calculation region, the relevant regulatory authorities may grant a derogation from paragraph 8 on foreseeable grounds where necessary for maintaining operational security. Such derogations, which shall not relate to the curtailment of capacities already allocated pursuant to paragraph 2, shall be granted for no more than one-year at a time,

▼B

or, provided that the extent of the derogation decreases significantly after the first year, up to a maximum of two years. The extent of such derogations shall be strictly limited to what is necessary to maintain operational security and they shall avoid discrimination between internal and cross-zonal exchanges.

Before granting a derogation, the relevant regulatory authority shall consult the regulatory authorities of other Member States forming part of the affected capacity calculation regions. Where a regulatory authority disagrees with the proposed derogation, ACER shall decide whether it should be granted pursuant to point (a) of Article 6(10) of Regulation (EU) 2019/942. The justification and reasons for the derogation shall be published.

Where a derogation is granted, the relevant transmission system operators shall develop and publish a methodology and projects that shall provide a long-term solution to the issue that the derogation seeks to address. The derogation shall expire when the time limit for the derogation is reached or when the solution is applied, whichever is earlier.

10. Market participants shall inform the transmission system operators concerned within a reasonable period in advance of the relevant operational period whether they intend to use allocated capacity. Any allocated capacity that is not going to be used shall be made available again to the market, in an open, transparent and non-discriminatory manner.

11. As far as technically possible, transmission system operators shall net the capacity requirements of any power flows in opposite directions over the congested interconnection line in order to use that line to its maximum capacity. Having full regard to network security, transactions that relieve the congestion shall not be refused.

12. The financial consequences of a failure to honour obligations associated with the allocation of capacity shall be attributed to the transmission system operators or NEMOs who are responsible for such a failure. Where market participants fail to use the capacity that they have committed to use, or, in the case of explicitly auctioned capacity, fail to trade capacity on a secondary basis or give the capacity back in due time, those market participants shall lose the rights to such capacity and shall pay a cost-reflective charge. Any cost-reflective charges for the failure to use capacity shall be justified and proportionate. If a transmission system operator does not fulfil its obligation of providing firm transmission capacity, it shall be liable to compensate the market participant for the loss of capacity rights. Consequential losses shall not be taken into account for that purpose. The key concepts and methods for the determination of liabilities that accrue upon failure to honour obligations shall be set out in advance in respect of the financial consequences, and shall be subject to review by the relevant regulatory authority.

13. When allocating costs of remedial actions between transmission system operators, regulatory authorities shall analyse to what extent flows resulting from transactions internal to bidding zones contribute to the congestion between two bidding zones observed, and allocate the costs based on the contribution to the congestion to the transmission

▼B

system operators of the bidding zones creating such flows except for costs induced by flows resulting from transactions internal to bidding zones that are below the level that could be expected without structural congestion in a bidding zone.

That level shall be jointly analysed and defined by all transmission system operators in a capacity calculation region for each individual bidding zone border, and shall be subject to the approval of all regulatory authorities in the capacity calculation region.

*Article 17***Allocation of cross-zonal capacity across timeframes**

1. Transmission system operators shall recalculate available cross-zonal capacity at least after day-ahead gate closure times and after intraday cross-zonal gate closure times. Transmission system operators shall allocate the available cross-zonal capacity plus any remaining cross-zonal capacity not previously allocated and any cross-zonal capacity released by physical transmission right holders from previous allocations in the following cross-zonal capacity allocation process.

2. Transmission system operators shall propose an appropriate structure for the allocation of cross-zonal capacity across timeframes, including day-ahead, intraday and balancing. That allocation structure shall be subject to review by the relevant regulatory authorities. In drawing up their proposal, the transmission system operators shall take into account:

- (a) the characteristics of the markets;
- (b) the operational conditions of the electricity system, such as the implications of netting firmly declared schedules;
- (c) the level of harmonisation of the percentages allocated to different timeframes and the timeframes adopted for the different cross-zonal capacity allocation mechanisms that are already in place.

3. Where cross-zonal capacity is available after the intraday cross-zonal gate closure time, transmission system operators shall use the cross-zonal capacity for the exchange of balancing energy or for the operation of the imbalance netting process.

4. Where cross-zonal capacity is allocated for the exchange of balancing capacity or sharing of reserves pursuant to Article 6(8) of this Regulation, transmission system operators shall use the methodologies developed in the guideline on electricity balancing adopted on the basis of Article 6(11) of Regulation (EC) No 714/2009.

5. Transmission system operators shall not increase the reliability margin calculated pursuant to Regulation (EU) 2015/1222 due to the exchange of balancing capacity or sharing of reserves.

▼B*SECTION 2**Network charges and congestion income**Article 18***Charges for access to networks, use of networks and reinforcement**

1. Charges applied by network operators for access to networks, including charges for connection to the networks, charges for use of networks, and, where applicable, charges for related network reinforcements, shall be cost-reflective, transparent, take into account the need for network security and flexibility and reflect actual costs incurred insofar as they correspond to those of an efficient and structurally comparable network operator and are applied in a non-discriminatory manner. Those charges shall not include unrelated costs supporting unrelated policy objectives.

Without prejudice to Article 15(1) and (6) of Directive 2012/27/EU and the criteria in Annex XI to that Directive the method used to determine the network charges shall neutrally support overall system efficiency over the long run through price signals to customers and producers and in particular be applied in a way which does not discriminate positively or negatively between production connected at the distribution level and production connected at the transmission level. The network charges shall not discriminate either positively or negatively against energy storage or aggregation and shall not create disincentives for self-generation, self-consumption or for participation in demand response. Without prejudice to paragraph 3 of this Article, those charges shall not be distance-related.

▼M2

2. Tariff methodologies shall:

- (a) reflect the fixed costs of transmission system operators and distribution system operators and shall consider both capital and operational expenditure to provide appropriate incentives to transmission system operators and distribution system operators over both the short and long term including anticipatory investment, in order to increase efficiencies including energy efficiency;
- (b) foster market integration, the integration of renewable energy and security of supply;
- (c) support the use of flexibility services and enable the use of flexible connections;
- (d) promote efficient and timely investment, including solutions to optimise the existing grid;
- (e) facilitate energy storage, demand response and related research activities;
- (f) contribute to the achievement of the objectives set out in the integrated national energy and climate plans, reduce the environmental impact and promote public acceptance; and

▼M2

- (g) facilitate innovation in the interest of consumers in areas such as digitalisation, flexibility services and interconnection, in particular to develop the required infrastructure to reach the minimum electricity interconnection target for 2030 laid down in Article 4, point (d)(1), of Regulation (EU) 2018/1999.

3. Where appropriate, the level of the tariffs applied to producers or final customers, or to both shall provide locational investment signals at Union level, such as incentives via tariff structure to reduce re-dispatching and power grid reinforcement costs and take into account the amount of network losses and congestion caused, and investment costs for infrastructure.

▼B

4. When setting the charges for network access, the following shall be taken into account:

- (a) payments and receipts resulting from the inter-transmission system operator compensation mechanism;
- (b) actual payments made and received as well as payments expected for future periods, estimated on the basis of previous periods.

5. Setting the charges for network access under this Article shall be without prejudice to charges resulting from congestion management referred to in Article 16.

6. There shall be no specific network charge on individual transactions for cross-zonal trading of electricity.

7. Distribution tariffs shall be cost-reflective taking into account the use of the distribution network by system users including active customers. Distribution tariffs may contain network connection capacity elements and may be differentiated based on system users' consumption or generation profiles. Where Member States have implemented the deployment of smart metering systems, regulatory authorities shall consider time-differentiated network tariffs when fixing or approving transmission tariffs and distribution tariffs or their methodologies in accordance with Article 59 of (EU) 2019/944 and, where appropriate, time-differentiated network tariffs may be introduced to reflect the use of the network, in a transparent, cost efficient and foreseeable way for the final customer.

▼M2

8. Transmission and distribution tariff methodologies shall provide incentives to transmission system operators and distribution system operators for the most cost-efficient operation and development of their networks including through the procurement of services. For that purpose, regulatory authorities shall recognise relevant costs as eligible, including costs related to anticipatory investment, shall include those costs in transmission and distribution tariffs, and shall, where appropriate, introduce performance targets in order to provide incentives to transmission system operators and distribution system operators to increase overall system efficiency in their networks, including through energy efficiency, the use of flexibility services and the development of smart grids and intelligent metering systems.

▼B

9. By 5 October 2019 in order to mitigate the risk of market fragmentation ACER shall provide a best practice report on transmission and distribution tariff methodologies while taking account of national specificities. That best practice report shall address at least:

- (a) the ratio of tariffs applied to producers and tariffs applied to final customers;
- (b) the costs to be recovered by tariffs;
- (c) time-differentiated network tariffs;
- (d) locational signals;
- (e) the relationship between transmission tariffs and distribution tariffs;

▼M2

- (f) methods, to be determined after consulting relevant stakeholders, to ensure transparency in the setting and structure of tariffs, including anticipatory investment, that are in line with relevant Union and national energy objectives and taking into account the acceleration areas as established in accordance with Directive (EU) 2018/2001;

▼B

- (g) groups of network users subject to tariffs including, where applicable, the characteristics of those groups, forms of consumption, and any tariff exemptions;
- (h) losses in high, medium and low-voltage grids;

▼M2

- (i) incentives for efficient investment in networks, including resources providing flexibility and flexible connection agreements.

▼B

ACER shall update the best practice report at least once every two years.

10. Regulatory authorities shall duly take the best practice report into consideration when fixing or approving transmission tariffs and distribution tariffs or their methodologies in accordance with Article 59 of Directive (EU) 2019/944.

Article 19

Congestion income

1. Congestion-management procedures associated with a pre-specified timeframe may generate revenue only in the event of congestion which arises for that timeframe, except in the case of new interconnectors which benefit from an exemption under Article 63 of this Regulation, Article 17 of Regulation (EC) No 714/2009 or Article 7 of Regulation (EC) No 1228/2003. The procedure for the distribution of those revenues shall be subject to review by the regulatory authorities and shall neither distort the allocation process in favour of any party requesting capacity or energy nor provide a disincentive to reduce congestion.

▼ M2

2. The following objectives shall have priority with the respect to the allocation of any revenues resulting from the allocation of cross-zonal capacity:

- (a) guaranteeing the actual availability of the allocated capacity including firmness compensation;
- (b) maintaining or increasing cross-zonal capacities through optimisation of the usage of existing interconnectors by means of coordinated remedial actions, where applicable, or covering costs resulting from network investment that is relevant to reducing interconnector congestion; or
- (c) compensating offshore renewable electricity generation plant operators in an offshore bidding zone directly connected to two or more bidding zones where access to interconnected markets has been reduced in such a way that it results in the offshore renewable electricity generation plant operator not being able to export its electricity generation capability to the market and, where relevant, in a corresponding price decrease in the offshore bidding zone compared to without-capacity reductions.

The compensation referred to in point (c) of the first subparagraph shall apply where, in the validated capacity calculation results, one or more transmission system operators either have not made available the capacity agreed in connection agreements on the interconnector or have not made available the capacity on the critical network elements pursuant to the capacity calculation rules laid down in Article 16(8), or both. The transmission system operators which are responsible for the reduction of access to interconnected markets shall be responsible for the compensation to offshore renewable electricity generation plant operators. On an annual basis, that compensation shall not exceed the total congestion income generated on interconnectors between the bidding zones concerned.

▼ B

3. Where the priority objectives set out in paragraph 2 have been adequately fulfilled, the revenues may be used as income to be taken into account by the regulatory authorities when approving the methodology for calculating network tariffs or fixing network tariffs, or both. The residual revenues shall be placed on a separate internal account line until such a time as it can be spent for the purposes set out in paragraph 2.

4. The use of revenues in accordance with point (a) or (b) of paragraph 2 shall be subject to a methodology proposed by the transmission system operators after consulting regulatory authorities and relevant stakeholders and after approval by ACER. The transmission system operators shall submit the proposed methodology to ACER by 5 July 2020 and ACER shall decide on the proposed methodology within six months of receiving it.

ACER may request transmission system operators to amend or update the methodology referred to in the first subparagraph. ACER shall decide on the amended or updated methodology not later than six months after its submission.

▼B

The methodology shall set out at least the conditions under which the revenues can be used for the purposes referred to in paragraph 2, the conditions under which those revenues may be placed on a separate internal account line for future use for those purposes, and for how long those revenues may be placed on such an account line.

5. Transmission system operators shall clearly establish, in advance, how any congestion income will be used, and shall report to the regulatory authorities on the actual use of that income. By 1 March each year, the regulatory authorities shall inform ACER and shall publish a report setting out:

- (a) the amount of revenue collected for the 12-month period ending on 31 December of the previous year;
- (b) how that revenue was used pursuant to paragraph 2, including the specific projects the income has been used for, and the amount placed on a separate account line;
- (c) the amount that was used when calculating network tariffs; and
- (d) verification that the amount referred to in point (c) complies with this Regulation and the methodology developed pursuant to paragraphs 3 and 4.

Where some of the congestion revenues are used when calculating network tariffs, the report shall set out how the transmission system operators fulfilled the priority objectives set out in paragraph 2 where applicable.

▼M2

CHAPTER IIIa

SPECIFIC INVESTMENT INCENTIVES TO ACHIEVE THE UNION'S
DECARBONISATION OBJECTIVES*Article 19a***Power purchase agreements**

1. Without prejudice to Directive (EU) 2018/2001, Member States shall promote the uptake of PPAs, including by removing unjustified barriers and disproportionate or discriminatory procedures or charges, with a view to providing price predictability and reaching the objectives set out in their integrated national energy and climate plans with respect to the decarbonisation dimension referred to in Article 4, point (a), of Regulation (EU) 2018/1999, including with respect to renewable energy, while preserving competitive and liquid electricity markets and cross-border trade.

2. When carrying out the review of this Regulation in accordance with Article 69(2), the Commission, after consulting relevant stakeholders, shall assess the potential and viability of one or several

▼ **M2**

Union market platforms for PPAs, to be used on a voluntary basis, including the interaction of those potential platforms with other existing electricity market platforms and the pooling of demand for PPAs through aggregation.

3. Member States shall ensure, in a coordinated manner, that instruments, such as guarantee schemes at market prices, to reduce the financial risks associated to offtaker payment default in the framework of PPAs are in place and accessible to customers that face entry barriers to the PPA market and that are not in financial difficulty. Such instruments may include, inter alia, state-backed guarantee schemes at market prices, private guarantees, or facilities pooling demand for PPAs, in accordance with relevant Union law. To that end, Member States shall ensure appropriate coordination, including with relevant Union-level facilities. Member States may determine the categories of customers that are targeted by those instruments, applying non-discriminatory criteria between and within the categories of customers.

4. Without prejudice to Articles 107 and 108 TFEU, if a guarantee scheme for PPAs is backed by the Member State, it shall include provisions to avoid lowering the liquidity in electricity markets and shall not provide support to the purchase of generation from fossil fuels. Member States may decide to limit those guarantee schemes to the exclusive support of the purchase of electricity from new renewable energy generation in accordance with the Member State's decarbonisation policies, including in particular where the market for renewables PPAs as defined in Article 2, point (17), of Directive (EU) 2018/2001 is not sufficiently developed.

5. Support schemes for electricity from renewable sources shall allow the participation of projects which reserve part of the electricity for sale through a renewable PPA or other market-based arrangements, provided that such participation does not negatively affect competition in the market, in particular where the two parties involved in that PPA are controlled by the same entity.

6. In the design of the support schemes referred to in paragraph 5, Member States shall endeavour to make use of evaluation criteria to incentivise bidders to facilitate the access of customers that face entry barriers to the PPA market, provided that this does not negatively affect competition in the market.

7. PPAs shall specify the bidding zone of delivery and the responsibility for securing cross-zonal transmission rights in the case of a change of bidding zone in accordance with Article 14.

8. PPAs shall specify the terms and conditions under which customers and producers may exit from PPAs, such as any applicable exit fees and notice periods, in accordance with Union competition law.

9. Member States, when designing measures directly affecting PPAs, shall respect possible legitimate expectations and shall take into account the effect of those measures on existing and future PPAs.

10. By 31 January 2026 and every two years thereafter, the Commission shall assess whether barriers persist, and whether there is sufficient transparency, in the PPA markets. The Commission may draw up specific guidance on removal of barriers in the PPA markets, including disproportionate or discriminatory procedures or charges.

▼ **M2***Article 19b***Voluntary templates for PPAs and monitoring of PPAs**

1. ACER shall publish an annual assessment on the PPA market at Union and Member State level as part of its annual report published pursuant to Article 15(2) of Regulation (EU) 2019/942.
2. By 17 October 2024, ACER shall assess, in close coordination with the relevant institutions and stakeholders, the need to develop and issue voluntary templates for PPAs, adapted to the needs of the different categories of counterparties.

Where the assessment concludes that there is a need to develop and issue such voluntary templates for PPAs, ACER, together with the NEMOs, and after consulting the relevant stakeholders, shall develop such templates, taking into account the following:

- (a) the use of those contract templates shall be voluntary for the contracting parties;
- (b) the contract templates shall, inter alia:
 - (i) offer a variety of contract durations;
 - (ii) provide a variety of price formulas;
 - (iii) consider the offtaker's load profile and the generator's generation profile.

*Article 19c***Measures at Union level to contribute to the achievement of the additional share of energy from renewable sources**

The Commission shall assess whether measures at Union level can contribute to the achievement of the Member States collective endeavour of an additional 2,5 % share of energy from renewable sources in the Union's gross final consumption of energy in 2030 pursuant to Directive (EU) 2018/2001, complementing national measures. The Commission shall analyse the possibility to use the Union renewable energy financing mechanism established pursuant to Article 33 of Regulation (EU) 2018/1999 to organise Union-level renewable energy auctions in line with the relevant regulatory framework.

*Article 19d***Direct price support schemes in the form of two-way contracts for difference for investment**

1. Direct price support schemes for investment in new power-generating facilities for the generation of electricity from the sources listed in paragraph 4 shall take the form of two-way contracts for difference or equivalent schemes with the same effects.

The first subparagraph shall apply to contracts under direct price support schemes for investment in new generation concluded on or after 17 July 2027, or, in the case of offshore hybrid asset projects connected to two or more bidding zones, 17 July 2029.

▼ **M2**

The participation of market participants in direct price support schemes in the form of two-way contracts for difference and in equivalent schemes with the same effects shall be voluntary.

2. All direct price support schemes in the form of two-way contracts for difference and equivalent schemes with the same effects shall be designed to:

- (a) preserve incentives for the power-generating facility to operate and participate efficiently in the electricity markets, in particular to reflect market circumstances;
- (b) prevent any distortive effect of the support scheme on the operation, dispatch and maintenance decisions of the power-generating facility or on bidding behaviour in day-ahead, intraday, ancillary services and balancing markets;
- (c) ensure that the level of the minimum remuneration protection and of the upward limit to excess remuneration are aligned with the cost of the new investment and the market revenues, to guarantee the long-term economic viability of the power-generating facility while avoiding overcompensation;
- (d) avoid undue distortions to competition and trade in the internal market, in particular by determining remuneration amounts through an open, clear, transparent and non-discriminatory competitive bidding process; where no such competitive bidding process can be conducted, two-way contracts for difference or equivalent schemes with the same effects, and the applicable strike prices, shall be designed to ensure that the distribution of revenues to undertakings does not create undue distortions to competition and trade in the internal market;
- (e) avoid distortions to competition and trade in the internal market resulting from the distribution of revenues to undertakings;
- (f) include penalty clauses applicable in the case of undue unilateral early termination of the contract.

3. In the assessment of two-way contracts for difference or equivalent schemes with the same effects under Articles 107 and 108 TFEU, the Commission shall ensure compliance with the design principles pursuant to paragraph 2.

4. Paragraph 1 shall apply to investment in new generation of electricity from the following sources:

- (a) wind energy;
- (b) solar energy;
- (c) geothermal energy;
- (d) hydropower without reservoir;
- (e) nuclear energy.

5. Any revenues, or the equivalent in financial value of those revenues, arising from direct price support schemes in the form of two-way contracts for difference and equivalent schemes with the same effects referred to in paragraph 1 shall be distributed to final customers.

▼ **M2**

Notwithstanding the first subparagraph, the revenues, or the equivalent in financial value of those revenues, may also be used to finance the costs of the direct price support schemes or investment to reduce electricity costs for final customers.

The distribution of revenues to final customers shall be designed to maintain incentives to reduce their consumption or shift it to periods when electricity prices are low and not to undermine competition between electricity suppliers.

6. In accordance with Article 4(3), third subparagraph, of Directive (EU) 2018/2001, Member States may exempt small-scale renewables installations and demonstration projects from the obligation under paragraph 1 of this Article.

*Article 19e***Assessment of flexibility needs**

1. No later than one year after the approval by ACER of the methodology pursuant to paragraph 6, and every two years thereafter, the regulatory authority or another authority or entity designated by a Member State, shall adopt a report on the estimated flexibility needs for a period of at least the next 5 to 10 years at national level, in view of the need to cost effectively achieve security and reliability of supply and decarbonise the electricity system, taking into account the integration of variable renewable energy sources and the different sectors, as well as the interconnected nature of the electricity market, including interconnection targets and potential availability of cross-border flexibility.

The report referred to in the first subparagraph shall:

- (a) be consistent with the European resource adequacy assessment and national resource adequacy assessments conducted pursuant to Articles 23 and 24;
- (b) be based on the data and analyses provided by the transmission system operators and distribution system operators of each Member State pursuant to paragraph 3 and using the common methodology pursuant to paragraph 4 and, where duly justified, additional data and analysis.

Where the Member State has designated a transmission system operator or another entity for the purpose of adopting the report referred to in the first subparagraph, the regulatory authority shall approve or amend the report.

2. The report referred to in paragraph 1 shall at least:

- (a) evaluate the different types of flexibility needs, at least on a seasonal, daily and hourly basis, to integrate electricity generated from renewable sources in the electricity system, inter alia, different assumptions in respect to electricity market prices, generation and demand;
- (b) consider the potential of non-fossil flexibility resources such as demand response and energy storage, including aggregation and interconnection, to fulfil the flexibility needs, both at transmission and distribution levels;

▼ **M2**

- (c) evaluate the barriers for flexibility in the market and propose relevant mitigation measures and incentives, including the removal of regulatory barriers and possible improvements to markets and system operation services or products;
- (d) evaluate the contribution of digitalisation of electricity transmission and distribution networks; and
- (e) take into account sources of flexibility that are expected to be available in other Member States.

3. The transmission system operators and distribution system operators of each Member State shall provide the data and analyses that are needed for the preparation of the report referred to in paragraph 1 to the regulatory authority or another authority or entity designated pursuant to paragraph 1. Where duly justified, the regulatory authority or another authority or entity designated pursuant to paragraph 1 may request the transmission system operators and distribution system operators concerned to provide additional input to the report, in addition to the requirements referred to in paragraph 4. The electricity transmission system operators or the electricity distribution system operators concerned shall, together with operators of natural gas systems and of hydrogen systems, coordinate the gathering of the relevant information where necessary for the purposes of this Article.

4. The ENTSO for Electricity and the EU DSO entity shall coordinate the work of transmission system operators and distribution system operators as regards the data and analyses to be provided in accordance with paragraph 3. In particular, they shall:

- (a) define the type and format of data that transmission system operators and distribution system operators are to provide to the regulatory authorities or another authority or entity designated pursuant to paragraph 1;
- (b) develop a methodology for the analysis by transmission system operators and distribution system operators of the flexibility needs, taking into account at least:
 - (i) all available sources of flexibility in a cost-efficient manner in the different timeframes, including in other Member States;
 - (ii) planned investment in interconnection and flexibility at transmission and distribution level; and
 - (iii) the need to decarbonise the electricity system in order to meet the Union's 2030 targets for energy and climate, as defined in Article 2, point (11), of Regulation (EU) 2018/1999, and its 2050 climate neutrality objective laid down in Article 2 of Regulation (EU) 2021/1119, in compliance with the Paris Agreement adopted under the United Nations Framework Convention on Climate Change ⁽¹²⁾.

The methodology referred to in point (b) of the first subparagraph shall contain guiding criteria on how to assess the capability of the different sources of flexibility to cover the flexibility needs.

⁽¹²⁾ OJ L 282, 19.10.2016, p. 4.

▼ **M2**

5. The ENTSO for Electricity and the EU DSO entity shall cooperate closely with each other as regards the coordination of transmission system operators and distribution system operators as regards the provision of data and analyses pursuant to paragraph 4.

6. By 17 April 2025, the ENTSO for Electricity and the EU DSO entity shall jointly submit to ACER a proposal regarding the type of data and format to be submitted to a regulatory authority or another authority or entity designated pursuant to paragraph 1, and the methodology for the analysis of the flexibility needs referred to in paragraph 4. Within three months of receipt of the proposal, ACER shall either approve the proposal or amend it. In the latter case, ACER shall consult the Electricity Coordination Group, the ENTSO for Electricity and the EU DSO entity before adopting the amendments. The adopted proposal shall be published on ACER's website.

7. The regulatory authority or another authority or entity designated pursuant to paragraph 1, shall submit the reports referred to in paragraph 1 to the Commission and to ACER and shall publish them. Within 12 months of receipt of the reports, ACER shall issue a report analysing them and providing recommendations on issues of cross-border relevance regarding the findings of the regulatory authority or another authority or entity designated pursuant to paragraph 1, including recommendations on removing barriers to the entry of non-fossil flexibility resources.

Among the issues of cross-border relevance, ACER shall assess:

- (a) how better to integrate the flexibility needs analysis referred to in paragraph 1 of this Article with the methodology for the European resource adequacy assessment in accordance with Article 23 and the methodology for the Union-wide ten year network development plan, ensuring consistency between them;
- (b) the estimated flexibility needs in the electricity system at Union level and its projected economically available potential for a period of the next 5 to 10 years taking into account the national reports;
- (c) the potential introduction of further measure to unleash flexibility potential in the electricity markets and system operation.

The results of the analysis referred to in the second subparagraph, point (a) may be taken into account in further revisions of the methodologies referred to in that point in accordance with the relevant Union legal acts.

The European Scientific Advisory Board on Climate Change may, on its own initiative, provide input to ACER on how to ensure compliance with the Union's 2030 targets for energy and climate and its 2050 climate neutrality objective.

8. ENTSO for Electricity shall update the Union-wide network development plan to include the results of the national reports of flexibility needs referred to in paragraph 1. Those reports shall be considered by transmission system operators and distribution system operators in their network development plans.

▼ **M2***Article 19f***Indicative national objective for non-fossil flexibility**

No later than six months after the submission of the report pursuant to Article 19e(1) of this Regulation, each Member State shall define, on the basis of that report, an indicative national objective for non-fossil flexibility, including the respective specific contributions of both demand response and energy storage to that objective. Member States may achieve that objective by realising the identified potential of non-fossil flexibility, via the removal of identified market barriers or via the non-fossil flexibility support schemes referred to in Article 19g of this Regulation. That indicative national objective, including the respective specific contributions of demand response and energy storage to that objective, as well as measures to achieve it shall also be reflected in Member States' integrated national energy and climate plans as regards the dimension 'Internal Energy Market' in accordance with Articles 3, 4 and 7 of Regulation (EU) 2018/1999 and in their integrated national energy and climate progress reports in accordance with Article 17 of that Regulation. Member States may define provisional indicative national objectives until the report is adopted pursuant to Article 19e (1) of this Regulation.

Following the assessment carried out in accordance with Article 9 of Regulation (EU) 2018/1999, the Commission, after receiving the national indicative objective defined and communicated by the Member States in accordance with paragraph 1 of this Article, shall submit a report to the European Parliament and to the Council assessing the national reports.

On the basis of the conclusions of the report elaborated with the first information communicated by Member States, the Commission may draw up a Union strategy on flexibility, with a particular focus on demand response and energy storage, to facilitate their deployment, which is consistent with the Union's 2030 targets for energy and climate and the 2050 climate-neutrality objective. That Union strategy on flexibility may be accompanied, where appropriate, by a legislative proposal.

*Article 19g***Non-fossil flexibility support schemes**

1. Where investment in non-fossil flexibility is insufficient to achieve the indicative national objective or, where relevant, provisional indicative national objectives defined pursuant to Article 19f, Member States may apply non-fossil flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility without prejudice to Articles 12 and 13. Member States which apply a capacity mechanism shall consider to make the necessary adaptations in the design of the capacity mechanisms to promote the participation of non-fossil flexibility such as demand side response and energy storage, without prejudice to the possibility for those Member States to use the non-fossil flexibility support schemes referred to in this paragraph.

▼ **M2**

2. The possibility for Member States to apply non-fossil flexibility support measures pursuant to paragraph 1 of this Article shall not preclude Member States from addressing their indicative national objectives defined pursuant to Article 19f by other means.

*Article 19h***Design principles for non-fossil flexibility support schemes**

Non-fossil flexibility support schemes applied by Member States in accordance with Article 19g(1) shall:

- (a) not go beyond what is necessary to achieve the indicative national objective, or where relevant the provisional indicative national objective, defined pursuant to Article 19f in a cost-effective manner;
- (b) be limited to new investment in non-fossil flexibility resources such as demand side response and energy storage;
- (c) endeavour to take into consideration locational criteria to ensure that investments in new capacity take place in optimal locations;
- (d) not imply starting fossil fuel-based generation located behind the metering point;
- (e) select capacity providers by means of an open, transparent, competitive, voluntary, non-discriminatory and cost-effective process;
- (f) prevent undue distortions to the efficient functioning of electricity markets including preserving efficient operation incentives and price signals and the exposure to price variation and market risk;
- (g) provide incentives for the integration in the electricity markets in a market-based and market-responsive way, while avoiding unnecessary distortions of electricity markets as well as taking into account possible system integration costs and grid congestion and stability;
- (h) set out a minimum level of participation in the electricity markets in terms of activated energy, which takes into account the technical specificities of the asset delivering the flexibility;
- (i) apply appropriate penalties to capacity providers which do not respect the minimum level of participation in the electricity markets referred to in point (h), or which do not follow efficient operation incentives and price signals referred to in point (f);
- (j) promote the opening to the cross-border participation of those resources that are capable of providing the required technical performance, where a cost-benefit analysis is positive.



CHAPTER IV

RESOURCE ADEQUACY

Article 20

Resource adequacy in the internal market for electricity

1. Member States shall monitor resource adequacy within their territory on the basis of the European resource adequacy assessment referred to in Article 23. For the purpose of complementing the European resource adequacy assessment, Member States may also carry out national resource adequacy assessments pursuant to Article 24.

2. Where the European resource adequacy assessment referred to in Article 23 or national resource adequacy assessment referred to in Article 24 identifies a resource adequacy concern, the Member State concerned shall identify any regulatory distortions or market failures that caused or contributed to the emergence of the concern.

3. Member States with identified resource adequacy concerns shall develop and publish an implementation plan with a timeline for adopting measures to eliminate any identified regulatory distortions or market failures as a part of the State aid process. When addressing resource adequacy concerns, the Member States shall in particular take into account the principles set out in Article 3 and shall consider:

- (a) removing regulatory distortions;
- (b) removing price caps in accordance with Article 10;
- (c) introducing a shortage pricing function for balancing energy as referred to in Article 44(3) of Regulation (EU) 2017/2195;
- (d) increasing interconnection and internal grid capacity with a view to reaching at least their interconnection targets as referred in point (d)(1) of Article 4 of Regulation (EU) 2018/1999;
- (e) enabling self-generation, energy storage, demand side measures and energy efficiency by adopting measures to eliminate any identified regulatory distortions;
- (f) ensuring cost-efficient and market-based procurement of balancing and ancillary services;
- (g) removing regulated prices where required by Article 5 of Directive (EU) 2019/944.

4. The Member States concerned shall submit their implementation plans to the Commission for review.

5. Within four months of receipt of the implementation plan, the Commission shall issue an opinion on whether the measures are sufficient to eliminate the regulatory distortions or market failures that were identified pursuant to paragraph 2, and may invite the Member States to amend their implementation plans accordingly.

▼B

6. The Member States concerned shall monitor the application of their implementation plans and shall publish the results of the monitoring in an annual report and shall submit that report to the Commission.

7. The Commission shall issue an opinion on whether the implementation plans have been sufficiently implemented and whether the resource adequacy concern has been resolved.

8. Member States shall continue to adhere to the implementation plan after the identified resource adequacy concern has been resolved.

*Article 21***General principles for capacity mechanisms****▼M2**

1. Member States may, while implementing the measures referred to in Article 20(3) of this Regulation in accordance with Articles 107, 108 and 109 TFEU, introduce capacity mechanisms.

▼B

2. Before introducing capacity mechanisms, the Member States concerned shall conduct a comprehensive study of the possible effects of such mechanisms on the neighbouring Member States by consulting at least its neighbouring Member States to which they have a direct network connection and the stakeholders of those Member States.

3. Member States shall assess whether a capacity mechanism in the form of strategic reserve is capable of addressing the resource adequacy concerns. Where this is not the case, Member States may implement a different type of capacity mechanism.

4. Member States shall not introduce capacity mechanisms where both the European resource adequacy assessment and the national resource adequacy assessment, or in the absence of a national resource adequacy assessment, the European resource adequacy assessment have not identified a resource adequacy concern.

5. Member States shall not introduce capacity mechanisms before the implementation plan as referred to in Article 20(3) has received an opinion by the Commission as referred to in Article 20(5).

6. Where a Member State applies a capacity mechanism, it shall review that capacity mechanism and shall ensure that no new contracts are concluded under that mechanism where both the European resource adequacy assessment and the national resource adequacy assessment, or in the absence of a national resource adequacy assessment, the European resource adequacy assessment have not identified a resource adequacy concern or the implementation plan as referred to in Article 20(3) has not received an opinion by the Commission as referred to in Article 20(5).

▼M2

8. Capacity mechanisms shall be approved by the Commission for no longer than 10 years. The amount of the committed capacities shall be reduced on the basis of the implementation plans referred to in Article 20(3). Member States shall continue to apply the implementation plan after the introduction of the capacity mechanism.

▼B*Article 22***Design principles for capacity mechanisms**

1. Any capacity mechanism shall:

▼M2**▼B**

- (b) not create undue market distortions and not limit cross-zonal trade;
- (c) not go beyond what is necessary to address the adequacy concerns referred to in Article 20;
- (d) select capacity providers by means of a transparent, non-discriminatory and competitive process;
- (e) provide incentives for capacity providers to be available in times of expected system stress;
- (f) ensure that the remuneration is determined through the competitive process;
- (g) set out the technical conditions for the participation of capacity providers in advance of the selection process;
- (h) be open to participation of all resources that are capable of providing the required technical performance, including energy storage and demand side management;
- (i) apply appropriate penalties to capacity providers that are not available in times of system stress.

2. The design of strategic reserves shall meet the following requirements:

- (a) where a capacity mechanism has been designed as a strategic reserve, the resources thereof are to be dispatched only if the transmission system operators are likely to exhaust their balancing resources to establish an equilibrium between demand and supply;
- (b) during imbalance settlement periods where resources in the strategic reserve are dispatched, imbalances in the market are to be settled at least at the value of lost load or at a higher value than the intraday technical price limit as referred in Article 10(1), whichever is higher;
- (c) the output of the strategic reserve following dispatch is to be attributed to balance responsible parties through the imbalance settlement mechanism;
- (d) the resources taking part in the strategic reserve are not to receive remuneration from the wholesale electricity markets or from the balancing markets;
- (e) the resources in the strategic reserve are to be held outside the market for at least the duration of the contractual period.

The requirement referred to in point (a) of the first subparagraph shall be without prejudice to the activation of resources before actual dispatch in order to respect the ramping constraints and operating requirements of the resources. The output of the strategic reserve during activation shall not be attributed to balance groups through wholesale markets and shall not change their imbalances.

▼B

3. In addition to the requirements laid down in paragraph 1, capacity mechanisms other than strategic reserves shall:

- (a) be constructed so as to ensure that the price paid for availability automatically tends to zero when the level of capacity supplied is expected to be adequate to meet the level of capacity demanded;
- (b) remunerate the participating resources only for their availability and ensure that the remuneration does not affect decisions of the capacity provider on whether or not to generate;
- (c) ensure that capacity obligations are transferable between eligible capacity providers.

4. Capacity mechanisms shall incorporate the following requirements regarding CO₂ emission limits:

- (a) from 4 July 2019 at the latest, generation capacity that started commercial production on or after that date and that emits more than 550 g of CO₂ of fossil fuel origin per kWh of electricity shall not be committed or to receive payments or commitments for future payments under a capacity mechanism;
- (b) from 1 July 2025 at the latest, generation capacity that started commercial production before 4 July 2019 and that emits more than 550 g of CO₂ of fossil fuel origin per kWh of electricity and more than 350 kg CO₂ of fossil fuel origin on average per year per installed kWe shall not be committed or receive payments or commitments for future payments under a capacity mechanism.

The emission limit of 550 g CO₂ of fossil fuel origin per kWh of electricity and the limit of 350 kg CO₂ of fossil fuel origin on average per year per installed kWe referred to in points (a) and (b) of the first subparagraph shall be calculated on the basis of the design efficiency of the generation unit meaning the net efficiency at nominal capacity under the relevant standards provided for by the International Organization for Standardization.

By 5 January 2020, ACER shall publish an opinion providing technical guidance related to the calculation of the values referred in the first subparagraph.

5. Member States that apply capacity mechanisms on 4 July 2019 shall adapt their mechanisms to comply with Chapter 4 without prejudice to commitments or contracts concluded by 31 December 2019.

Article 23

European resource adequacy assessment

1. The European resource adequacy assessment shall identify resource adequacy concerns by assessing the overall adequacy of the electricity system to supply current and projected demands for electricity at Union level, at the level of the Member States, and at the level of individual bidding zones, where relevant. The European resource adequacy assessment shall cover each year within a period of 10 years from the date of that assessment.

2. The European resource adequacy assessment shall be conducted by the ENTSO for Electricity.

▼B

3. By 5 January 2020, the ENTSO for Electricity shall submit to the Electricity Coordination Group set up under Article 1 of Commission Decision of 15 November 2012 ⁽¹³⁾ and ACER a draft methodology for the European resource adequacy assessment based on the principles provided for in paragraph 5 of this Article.

4. Transmission system operators shall provide the ENTSO for Electricity with the data it needs to carry out the European resource adequacy assessment.

The ENTSO for Electricity shall carry out the European resource adequacy assessment on an annual basis. Producers and other market participants shall provide transmission system operators with data regarding expected utilisation of the generation resources, taking into account the availability of primary resources and appropriate scenarios of projected demand and supply.

5. The European resource adequacy assessment shall be based on a transparent methodology which shall ensure that the assessment:

- (a) is carried out on each bidding zone level covering at least all Member States;
- (b) is based on appropriate central reference scenarios of projected demand and supply including an economic assessment of the likelihood of retirement, mothballing, new-build of generation assets and measures to reach energy efficiency and electricity interconnection targets and appropriate sensitivities on extreme weather events, hydrological conditions, wholesale prices and carbon price developments;
- (c) contains separate scenarios reflecting the differing likelihoods of the occurrence of resource adequacy concerns which the different types of capacity mechanisms are designed to address;
- (d) appropriately takes account of the contribution of all resources including existing and future possibilities for generation, energy storage, sectoral integration, demand response, and import and export and their contribution to flexible system operation;
- (e) anticipates the likely impact of the measures referred in Article 20 (3);
- (f) includes variants without existing or planned capacity mechanisms and, where applicable, variants with such mechanisms;
- (g) is based on a market model using the flow-based approach, where applicable;
- (h) applies probabilistic calculations;
- (i) applies a single modelling tool;

⁽¹³⁾ Commission Decision of 15 November 2012 setting up the Electricity Coordination Group (OJ C 353, 17.11.2012, p. 2).

▼B

- (j) includes at least the following indicators referred to in Article 25:
 - ‘expected energy not served’, and
 - ‘loss of load expectation’;
- (k) identifies the sources of possible resource adequacy concerns, in particular whether it is a network constraint, a resource constraint, or both;
- (l) takes into account real network development;
- (m) ensures that the national characteristics of generation, demand flexibility and energy storage, the availability of primary resources and the level of interconnection are properly taken into consideration.

6. By 5 January 2020, the ENTSO for Electricity shall submit to ACER a draft methodology for calculating:

- (a) the value of lost load;
- (b) the cost of new entry for generation, or demand response; and
- (c) the reliability standard referred to in Article 25.

The methodology shall be based on transparent, objective and verifiable criteria.

7. The proposals under paragraphs 3 and 6 for the draft methodology, the scenarios, sensitivities and assumptions on which they are based, and the results of the European resource adequacy assessment under paragraph 4 shall be subject to the prior consultation of Member States, the Electricity Coordination Group and relevant stakeholders and approval by ACER under the procedure set out in Article 27.

Article 24

National resource adequacy assessments

1. National resource adequacy assessments shall have a regional scope and shall be based on the methodology referred in Article 23 (3) in particular in points (b) to (m) of Article 23(5).

National resource adequacy assessments shall contain the reference central scenarios as referred to in point (b) of Article 23(5).

National resource adequacy assessments may take into account additional sensitivities to those referred in point (b) of Article 23(5). In such cases, national resource adequacy assessments may:

- (a) make assumptions taking into account the particularities of national electricity demand and supply;
- (b) use tools and consistent recent data that are complementary to those used by the ENTSO for Electricity for the European resource adequacy assessment.

▼B

In addition, the national resource adequacy assessments, in assessing the contribution of capacity providers located in another Member State to the security of supply of the bidding zones that they cover, shall use the methodology as provided for in point (a) of Article 26(11).

2. National resource adequacy assessments and, where applicable, the European resource adequacy assessment and the opinion of ACER pursuant to paragraph 3 shall be made publicly available.

3. Where the national resource adequacy assessment identifies an adequacy concern with regard to a bidding zone that was not identified in the European resource adequacy assessment, the national resource adequacy assessment shall include the reasons for the divergence between the two resource adequacy assessments, including details of the sensitivities used and the underlying assumptions. Member States shall publish that assessment and submit it to ACER.

Within two months of the date of the receipt of the report, ACER shall provide an opinion on whether the differences between the national resource adequacy assessment and the European resource adequacy assessment are justified.

The body that is responsible for the national resource adequacy assessment shall take due account of ACER's opinion, and where necessary shall amend its assessment. Where it decides not to take ACER's opinion fully into account, the body that is responsible for the national resource adequacy assessment shall publish a report with detailed reasons.

Article 25

Reliability standard

1. When applying capacity mechanisms Member States shall have a reliability standard in place. A reliability standard shall indicate the necessary level of security of supply of the Member State in a transparent manner. In the case of cross-border bidding zones, such reliability standards shall be established jointly by the relevant authorities.

2. The reliability standard shall be set by the Member State or by a competent authority designated by the Member State, following a proposal by the regulatory authority. The reliability standard shall be based on the methodology set out in Article 23(6).

3. The reliability standard shall be calculated using at least the value of lost load and the cost of new entry over a given timeframe and shall be expressed as 'expected energy not served' and 'loss of load expectation'.

4. When applying capacity mechanisms, the parameters determining the amount of capacity procured in the capacity mechanism shall be approved by the Member State or by a competent authority designated by the Member State, on the basis of a proposal of the regulatory authority.

*Article 26***Cross-border participation in capacity mechanisms**

1. Capacity mechanisms other than strategic reserves and where technically feasible, strategic reserves shall be open to direct cross-border participation of capacity providers located in another Member State, subject to the conditions laid down in this Article.

2. Member States shall ensure that foreign capacity capable of providing equivalent technical performance to domestic capacities has the opportunity to participate in the same competitive process as domestic capacity. In the case of capacity mechanisms in operation on 4 July 2019, Member States may allow interconnectors to participate directly in the same competitive process as foreign capacity for a maximum of four years from 4 July 2019 or two years after the date of approval of the methodologies referred to in paragraph 11, whichever is earlier.

Member States may require foreign capacity to be located in a Member State that has a direct network connection with the Member State applying the mechanism.

3. Member States shall not prevent capacity which is located in their territory from participating in capacity mechanisms of other Member States.

4. Cross-border participation in capacity mechanisms shall not change, alter or otherwise affect cross-zonal schedules or physical flows between Member States. Those schedules and flows shall be determined solely by the outcome of capacity allocation pursuant to Article 16.

5. Capacity providers shall be able to participate in more than one capacity mechanism.

Where capacity providers participate in more than one capacity mechanism for the same delivery period, they shall participate up to the expected availability of interconnection and the likely concurrence of system stress between the system where the mechanism is applied and the system in which the foreign capacity is located, in accordance with the methodology referred to in point (a) of paragraph 11.

6. Capacity providers shall be required to make non-availability payments where their capacity is not available.

Where capacity providers participate in more than one capacity mechanism for the same delivery period, they shall be required to make multiple non-availability payments where they are unable to fulfil multiple commitments.

7. For the purposes of providing a recommendation to transmission system operators, regional coordination centres established pursuant to Article 35 shall calculate on an annual basis the maximum entry capacity available for the participation of foreign capacity. That calculation shall take into account the expected availability of interconnection and the likely concurrence of system stress in the system

▼B

where the mechanism is applied and the system in which the foreign capacity is located. Such a calculation shall be required for each bidding zone border.

Transmission system operators shall set the maximum entry capacity available for the participation of foreign capacity based on the recommendation of the regional coordination centre on an annual basis.

8. Member States shall ensure that the entry capacity referred to in paragraph 7 is allocated to eligible capacity providers in a transparent, non-discriminatory and market-based manner.

9. Where capacity mechanisms allow for cross-border participation in two neighbouring Member States, any revenues arising through the allocation referred to in paragraph 8 shall accrue to the transmission system operators concerned and shall be shared between them in accordance with the methodology referred in point (b) of paragraph 11 of this Article or in accordance with a common methodology approved by both relevant regulatory authorities. If the neighbouring Member State does not apply a capacity mechanism or applies a capacity mechanism which is not open to cross-border participation, the share of revenues shall be approved by the competent national authority of the Member State in which the capacity mechanism is implemented after having sought the opinion of the regulatory authorities of the neighbouring Member States. Transmission system operators shall use such revenues for the purposes set out in Article 19(2).

10. The transmission system operator where the foreign capacity is located shall:

- (a) establish whether interested capacity providers can provide the technical performance as required by the capacity mechanism in which the capacity provider intends to participate, and register that capacity provider as an eligible capacity provider in a registry set up for that purpose;
- (b) carry out availability checks;
- (c) notify the transmission system operator in the Member State applying the capacity mechanism of the information it acquires under points (a) and (b) of this subparagraph and the second subparagraph.

The relevant capacity provider shall notify the transmission system operator of its participation in a foreign capacity mechanism without delay.

11. By 5 July 2020 the ENTSO for Electricity shall submit to ACER:

- (a) a methodology for calculating the maximum entry capacity for cross-border participation as referred to in paragraph 7;
- (b) a methodology for sharing the revenues referred to in paragraph 9;

▼B

- (c) common rules for the carrying out of availability checks referred to in point (b) of paragraph 10;
- (d) common rules for determining when a non-availability payment is due;
- (e) terms of the operation of the registry as referred to in point (a) of paragraph 10;
- (f) common rules for identifying capacity eligible to participate in the capacity mechanism as referred to in point (a) of paragraph 10.

The proposal shall be subject to prior consultation and approval by ACER in accordance with Article 27.

12. The regulatory authorities concerned shall verify whether the capacities have been calculated in accordance with the methodology referred to in point (a) of paragraph 11.

13. Regulatory authorities shall ensure that cross-border participation in capacity mechanisms is organised in an effective and non-discriminatory manner. They shall in particular provide for adequate administrative arrangements for the enforcement of non-availability payments across borders.

14. The capacities allocated in accordance with paragraph 8 shall be transferable between eligible capacity providers. Eligible capacity providers shall notify the registry as referred to in point (a) of paragraph 10 of any such transfer.

15. By 5 July 2021 the ENTSO for Electricity shall set up and operate the registry referred to in point (a) of paragraph 10. The registry shall be open to all eligible capacity providers, the systems implementing capacity mechanisms and their transmission system operators.

Article 27

Approval procedure

1. Where reference is made to this Article, the procedure set out in paragraphs 2, 3 and 4 shall apply to the approval of proposals submitted by the ENTSO for Electricity.

2. Before submitting a proposal, the ENTSO for Electricity shall carry out a consultation involving all relevant stakeholders, including regulatory authorities and other national authorities. It shall duly take the results of that consultation into consideration in its proposal.

3. Within three months of the date of receipt of the proposal referred to in paragraph 1, ACER shall either approve or amend it. In the latter case, ACER shall consult the ENTSO for Electricity before approving the amended proposal. ACER shall publish the approved proposal on its website within three months of the date of receipt of the proposed documents.

▼B

4. ACER may request changes to the approved proposal at any time. Within six months of the date of receipt of such a request, the ENTSO for Electricity shall submit a draft of the proposed changes to ACER. Within three months of the date of receipt of the draft, ACER shall amend or approve the changes and publish those changes on its website.

CHAPTER V

TRANSMISSION SYSTEM OPERATION

*Article 28***European network of transmission system operators for electricity**

1. Transmission system operators shall cooperate at Union level through the ENTSO for Electricity, in order to promote the completion and functioning of the internal market for electricity and cross-zonal trade and to ensure the optimal management, coordinated operation and sound technical evolution of the European electricity transmission network.

2. In performing its functions under Union law, the ENTSO for Electricity shall act with a view to establishing a well-functioning and integrated internal market for electricity and shall contribute to the efficient and sustainable achievement of the objectives set out in the policy framework for climate and energy covering the period from 2020 to 2030, in particular by contributing to the efficient integration of electricity generated from renewable energy sources and to increases in energy efficiency while maintaining system security. The ENTSO for Electricity shall be equipped with adequate human and financial resources to carry out its duties.

*Article 29***The ENTSO for Electricity**

1. The transmission system operators for electricity shall submit to the Commission and to ACER any draft amendments to the statutes, list of members or rules of procedure of the ENTSO for Electricity.

2. Within two months of receipt of the draft amendments to the statutes, list of members or rules of procedure, ACER, after consulting the organisations representing all stakeholders, in particular the system users, including customers, shall provide an opinion to the Commission on these draft amendments to the statutes, list of members or rules of procedure.

3. The Commission shall deliver an opinion on the draft amendments to the statutes, list of members or rules of procedures taking into account ACER's opinion as provided for in paragraph 2 and within three months of receipt of ACER's opinion.

▼B

4. Within three months of receipt of the Commission's favourable opinion, the transmission system operators shall adopt and publish the amended statutes or rules of procedure.

5. The documents referred to in paragraph 1 shall be submitted to the Commission and to ACER where there are changes thereto or upon the reasoned request of either of them. The Commission and ACER shall deliver an opinion in accordance with paragraphs 2, 3 and 4.

*Article 30***Tasks of the ENTSO for Electricity**

1. The ENTSO for Electricity shall:
 - (a) develop network codes in the areas set out in Article 59(1) and (2) with a view to achieving the objectives set out in Article 28;
 - (b) adopt and publish a non-binding Union-wide ten-year network development plan, ('Union-wide network development plan'), biennially;
 - (c) prepare and adopt proposals related to the European resource adequacy assessment pursuant to Article 23 and proposals for the technical specifications for cross-border participation in capacity mechanisms pursuant to Article 26(11);
 - (d) adopt recommendations relating to the coordination of technical cooperation between Union and third-country transmission system operators;
 - (e) adopt a framework for the cooperation and coordination between regional coordination centres;
 - (f) adopt a proposal defining the system operation region in accordance with Article 36;
 - (g) cooperate with distribution system operators and the EU DSO entity;
 - (h) promote the digitalisation of transmission networks including deployment of smart grids, efficient real time data acquisition and intelligent metering systems;
 - (i) adopt common network operation tools to ensure coordination of network operation in normal and emergency conditions, including a common incident classification scale, and research plans, including the deployment of those plans through an efficient research programme. Those tools shall specify inter alia:
 - (i) the information, including appropriate day-ahead, intraday and real-time information, useful for improving operational coordination, as well as the optimal frequency for the collection and sharing of such information;
 - (ii) the technological platform for the exchange of information in real time and where appropriate, the technological platforms for the collection, processing and transmission of the other

▼B

information referred to in point (i), as well as for the implementation of the procedures capable of increasing operational coordination between transmission system operators with a view to such coordination becoming Union-wide;

- (iii) how transmission system operators make available the operational information to other transmission system operators or any entity duly mandated to support them to achieve operational coordination, and to ACER; and
- (iv) that transmission system operators designate a contact point in charge of answering inquiries from other transmission system operators or from any entity duly mandated as referred to in point (iii), or from ACER concerning such information;
- (j) adopt an annual work programme;
- (k) contribute to the establishment of interoperability requirements and non-discriminatory and transparent procedures for accessing data as provided for in Article 24 of Directive (EU) 2019/944;
- (l) adopt an annual report;
- (m) carry out and adopt seasonal adequacy assessments pursuant to Article 9(2) of Regulation (EU) 2019/941;
- (n) promote cyber security and data protection in cooperation with relevant authorities and regulated entities;
- (o) take into account the development of demand response in fulfilling its tasks.

2. The ENTSO for Electricity shall report to ACER on shortcomings identified regarding the establishment and performance of regional coordination centres.

3. The ENTSO for Electricity shall publish the minutes of its assembly meetings, board meetings and committee meetings and provide the public with regular information on its decision-making and activities.

4. The annual work programme referred to in point (j) of paragraph 1 shall contain a list and description of the network codes to be prepared, a plan on coordination of operation of the network, and research and development activities, to be realised in that year, and an indicative calendar.

5. The ENTSO for Electricity shall provide ACER with the information that ACER requires to fulfil its tasks pursuant to Article 32(1). In order to enable the ENTSO for Electricity to meet that requirement, transmission system operators shall provide the ENTSO for Electricity with the requisite information.

6. Upon request of the Commission, the ENTSO for Electricity shall give its views to the Commission on the adoption of the guidelines as laid down in Article 61.

*Article 31***Consultations**

1. While preparing the proposals pursuant to the tasks referred to in Article 30(1), the ENTSO for Electricity shall conduct an extensive consultation process. The consultation process shall be structured in a way to enable the accommodation of stakeholder comments before the final adoption of the proposal and in an open and transparent manner, involving all relevant stakeholders, and, in particular, the organisations representing such stakeholders, in accordance with the rules of procedure referred to in Article 29. That consultation shall also involve regulatory authorities and other national authorities, supply and generation undertakings, system users including customers, distribution system operators, including relevant industry associations, technical bodies and stakeholder platforms. It shall aim at identifying the views and proposals of all relevant parties during the decision-making process.

2. All documents and minutes of meetings related to the consultations referred to in paragraph 1 shall be made public.

3. Before adopting the proposals referred to in Article 30(1) the ENTSO for Electricity shall indicate how the observations received during the consultation have been taken into consideration. It shall provide reasons where observations have not been taken into account.

*Article 32***Monitoring by ACER**

1. ACER shall monitor the execution of the tasks of the ENTSO for Electricity referred to in Article 30(1), (2) and (3) and report its findings to the Commission.

ACER shall monitor the implementation by the ENTSO for Electricity of network codes developed under Article 59. Where the ENTSO for Electricity has failed to implement such network codes, ACER shall request the ENTSO for Electricity to provide a duly reasoned explanation as to why it has failed to do so. ACER shall inform the Commission of that explanation and provide its opinion thereon.

ACER shall monitor and analyse the implementation of the network codes and the guidelines adopted by the Commission as laid down in Article 58(1), and their effect on the harmonisation of applicable rules aimed at facilitating market integration as well as on non-discrimination, effective competition and the efficient functioning of the market, and report to the Commission.

2. The ENTSO for Electricity shall submit the draft Union-wide network development plan, the draft annual work programme, including the information regarding the consultation process, and the other documents referred to in Article 30(1) to ACER for its opinion.

▼B

Where it considers that the draft annual work programme or the draft Union-wide network development plan submitted by the ENTSO for Electricity does not contribute to non-discrimination, effective competition, the efficient functioning of the market or a sufficient level of cross-border interconnection open to third-party access, ACER shall provide a duly reasoned opinion as well as recommendations to the ENTSO for Electricity and to the Commission within two months of the submission.

*Article 33***Costs**

The costs related to the activities of the ENTSO for Electricity referred to in Articles 28 to 32 and 58 to 61 of this Regulation, and in Article 11 of Regulation (EU) No 347/2013 of the European Parliament and of the Council⁽¹⁴⁾ shall be borne by the transmission system operators and shall be taken into account in the calculation of tariffs. Regulatory authorities shall approve those costs only if they are reasonable and appropriate.

*Article 34***Regional cooperation of transmission system operators**

1. Transmission system operators shall establish regional cooperation within the ENTSO for Electricity to contribute to the activities referred to in Article 30(1), (2) and (3). In particular, they shall publish a regional investment plan biennially, and may take investment decisions based on that regional investment plan. The ENTSO for Electricity shall promote cooperation between transmission system operators at regional level ensuring interoperability, communication and monitoring of regional performance in those areas which have not yet been harmonised at Union level.

2. Transmission system operators shall promote operational arrangements in order to ensure the optimum management of the network and shall promote the development of energy exchanges, the coordinated allocation of cross-border capacity through non-discriminatory market-based solutions, paying due attention to the specific merits of implicit auctions for short-term allocations, and the integration of balancing and reserve power mechanisms.

3. For the purposes of achieving the goals set in paragraphs 1 and 2, the geographical area covered by each regional cooperation structure may be established by the Commission, taking into account existing regional cooperation structures. Each Member State may promote cooperation in more than one geographical area.

The Commission is empowered to adopt delegated acts in accordance with Article 68, supplementing this Regulation, establishing the geographical area covered by each regional cooperation structure. For that purpose, the Commission shall consult the regulatory authorities, ACER and the ENTSO for Electricity.

⁽¹⁴⁾ Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 (OJ L 115, 25.4.2013, p. 39).

▼B

The delegated acts referred to in this paragraph shall be without prejudice to Article 36.

*Article 35***Establishment and mission of regional coordination centres**

1. By 5 July 2020, all transmission system operators of a system operation region shall submit a proposal for the establishment of regional coordination centres to the regulatory authorities concerned in accordance with the criteria set out in this Chapter.

The regulatory authorities of the system operation region shall review and approve the proposal.

The proposal shall at least include the following elements:

- (a) the Member State of the prospective seat of the regional coordination centres and the participating transmission system operators;
- (b) the organisational, financial and operational arrangements necessary to ensure the efficient, secure and reliable operation of the interconnected transmission system;
- (c) an implementation plan for the entry into operation of the regional coordination centres;
- (d) the statutes and rules of procedure of the regional coordination centres;
- (e) a description of cooperative processes in accordance with Article 38;
- (f) a description of the arrangements concerning the liability of the regional coordination centres in accordance with Article 47;
- (g) where two regional coordination centres are maintained on a rotational basis in accordance with Article 36(2), a description of the arrangements to provide clear responsibilities to those regional coordination centres and procedures on the execution of their tasks.

2. Following approval by regulatory authorities of the proposal in paragraph 1, the regional coordination centres shall replace the regional security coordinators established pursuant to the system operation guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009 and shall enter into operation by 1 July 2022.

3. Regional coordination centres shall have a legal form referred to in Annex II to Directive (EU) 2017/1132 of the European Parliament and of the Council ⁽¹⁵⁾.

⁽¹⁵⁾ Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (OJ L 169, 30.6.2017, p. 46).

▼B

4. In performing their tasks under Union law, regional coordination centres shall act independently of individual national interests and independently of the interests of transmission system operators.

5. Regional coordination centres shall complement the role of transmission system operators by performing the tasks of regional relevance assigned to them in accordance with Article 37. Transmission system operators shall be responsible for managing electricity flows and ensuring a secure, reliable and efficient electricity system in accordance with point (d) of Article 40(1) of Directive (EU) 2019/944.

*Article 36***Geographical scope of regional coordination centres**

1. By 5 January 2020 the ENTSO for Electricity shall submit to ACER a proposal specifying which transmission system operators, bidding zones, bidding zone borders, capacity calculation regions and outage coordination regions are covered by each of the system operation regions. The proposal shall take into account the grid topology, including the degree of interconnection and of interdependency of the electricity system in terms of flows and the size of the region which shall cover at least one capacity calculation region.

2. The transmission system operators of a system operation region shall participate in the regional coordination centre established in that region. In exceptional circumstances, where the control area of a transmission system operator is part of various synchronous areas, the transmission system operator may participate in two regional coordination centres. For the bidding zone borders adjacent to system operation regions, the proposal in paragraph 1 shall specify how the coordination between regional coordination centres for those borders is to take place. For the Continental Europe synchronous area, where the activities of two regional coordination centres may overlap in a system operation region, the transmission system operators of that system operation region shall decide to either designate a single regional coordination centre in that region or that the two regional coordination centres carry out some or all of the tasks of regional relevance in the entire system operation region on a rotational basis while other tasks are carried out by a single designated regional coordination centre.

3. Within three months of receipt of the proposal in paragraph 1, ACER shall either approve the proposal defining the system operation regions or propose amendments. In the latter case, ACER shall consult the ENTSO for Electricity before adopting the amendments. The adopted proposal shall be published on ACER's website.

4. The relevant transmission system operators may submit a proposal to ACER for the amendment of system operation regions defined pursuant to paragraph 1. The process set out in paragraph 3 shall apply.

▼B*Article 37***Tasks of regional coordination centres**

1. Each regional coordination centre shall carry out at least all the following tasks of regional relevance in the entire system operation region where it is established:

▼M2

- (a) carrying out the coordinated capacity calculation in accordance with the methodologies developed pursuant to the forward capacity allocation guideline established by Regulation (EU) 2016/1719, the capacity allocation and congestion management guideline established by Regulation (EU) 2015/1222 and the electricity balancing guideline established by Regulation (EU) 2017/2195;

▼B

- (b) carrying out the coordinated security analysis in accordance with the methodologies developed pursuant to the system operation guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009;
- (c) creating common grid models in accordance with the methodologies and procedures developed pursuant to the system operation guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009;
- (d) supporting the consistency assessment of transmission system operators' defence plans and restoration plans in accordance with the procedure set out in the emergency and restoration network code adopted on the basis of Article 6(11) of Regulation (EC) No 714/2009;
- (e) carrying out regional week ahead to at least day-ahead system adequacy forecasts and preparation of risk reducing actions in accordance with the methodology set out in Article 8 of Regulation (EU) 2019/941 and the procedures set out in the system operation guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009;
- (f) carrying out regional outage planning coordination in accordance with the procedures and methodologies set out in the system operation guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009;
- (g) training and certification of staff working for regional coordination centres;
- (h) supporting the coordination and optimisation of regional restoration as requested by transmission system operators;
- (i) carrying out post-operation and post-disturbances analysis and reporting;
- (j) regional sizing of reserve capacity;
- (k) facilitating the regional procurement of balancing capacity;
- (l) supporting transmission system operators, at their request, in the optimisation of inter-transmission system operators settlements;

▼B

- (m) carrying out tasks related to the identification of regional electricity crisis scenarios if and to the extent they are delegated to the regional coordination centres pursuant to Article 6(1) of Regulation (EU) 2019/941;
- (n) carrying out tasks related to the seasonal adequacy assessments if and to the extent that they are delegated to the regional coordination centres pursuant to Article 9(2) of Regulation (EU) 2019/941;
- (o) calculating the value for the maximum entry capacity available for the participation of foreign capacity in capacity mechanisms for the purposes of issuing a recommendation pursuant to Article 26(7);
- (p) carrying out tasks related to supporting transmission system operators in the identification of needs for new transmission capacity, for upgrade of existing transmission capacity or their alternatives, to be submitted to the regional groups established pursuant to Regulation (EU) No 347/2013 and included in the ten-year network development plan referred to in Article 51 of Directive (EU) 2019/944.

The tasks referred to in the first subparagraph are set out in more detail in Annex I.

2. On the basis of a proposal by the Commission or a Member State, the Committee established by Article 68 of Directive (EU) 2019/944 shall issue an opinion on the assignment of new advisory tasks to regional coordination centres. Where that Committee issues a favourable opinion on the assignment of new advisory tasks, the regional coordination centres shall carry out those tasks on the basis of a proposal developed by the ENTSO for Electricity and approved by ACER in accordance with the procedure set out in Article 27.

3. Transmission system operators shall provide their regional coordination centres with the information necessary to carry out its tasks.

4. Regional coordination centres shall provide transmission system operators of the system operation region with all information necessary to implement the coordinated actions and recommendations issued by regional coordination centres.

5. For the tasks set out in this Article and not already covered by the relevant network codes or guidelines, the ENTSO for Electricity shall develop a proposal in accordance with the procedure set out in Article 27. Regional coordination centres shall carry out those tasks on the basis of the proposal following its approval by ACER.

Article 38

Cooperation within and between regional coordination centres

The day-to-day coordination within and between regional coordination centres shall be managed through cooperative processes among the transmission system operators of the region, including arrangements for coordination between regional coordination centres where relevant. The cooperative process shall be based on:

▼B

- (a) working arrangements to address planning and operational aspects relevant to the tasks referred to in Article 37;
- (b) a procedure for sharing analysis and consulting on regional coordination centres' proposals with the transmission system operators in the system operation region and relevant stakeholders and with other regional coordination centres, in an efficient and inclusive manner, in the exercise of the operational duties and tasks, in accordance with Article 40;
- (c) a procedure for the adoption of coordinated actions and recommendations in accordance with Article 42.

*Article 39***Working arrangements**

1. Regional coordination centres shall develop working arrangements that are efficient, inclusive, transparent and facilitate consensus, in order to address planning and operational aspects related to the tasks to be carried out, taking into account, in particular, the specificities and requirements of those tasks as specified in Annex I. Regional coordination centres shall also develop a process for the revision of those working arrangements.

2. Regional coordination centres shall ensure that the working arrangements referred to in paragraph 1 contain rules for the notification of parties concerned.

*Article 40***Consultation procedure**

1. Regional coordination centres shall develop a procedure to organise, in the exercise of their daily operational duties and tasks, the appropriate and regular consultation of transmission system operators in the system operation region, other regional coordination centres and of relevant stakeholders. In order to ensure that regulatory issues can be addressed, regulatory authorities shall be involved when required.

2. Regional coordination centres shall consult the Member States in the system operation region and, where there is a regional forum, their regional forums on matters of political relevance excluding the day-to-day activities of regional coordination centres and the implementation of their tasks. Regional coordination centres shall take due account of the recommendations of the Member States and where applicable, of their regional forums.

*Article 41***Transparency**

1. Regional coordination centres shall develop a process for stakeholder involvement and shall organise regular meetings with stakeholders to discuss matters relating to the efficient, secure and reliable operation of the interconnected system and to identify shortcomings and propose improvements.

▼B

2. The ENTSO for Electricity and regional coordination centres shall operate in full transparency towards stakeholders and the general public. They shall publish all relevant documentation on their respective websites.

*Article 42***Adoption and review of coordinated actions and recommendations**

1. The transmission system operators in a system operation region shall develop a procedure for the adoption and revision of coordinated actions and recommendations issued by regional coordination centres in accordance with the criteria set out in paragraphs 2, 3, and 4.

2. Regional coordination centres shall issue coordinated actions to the transmission system operators in respect of the tasks referred to in points (a) and (b) of Article 37(1). Transmission system operators shall implement the coordinated actions except where the implementation of the coordinated actions would result in a violation of the operational security limits defined by each transmission system operator in accordance with the system operation guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009.

Where a transmission system operator decides not to implement a coordinated action for the reasons set out in this paragraph, it shall transparently report the detailed reasons to the regional coordination centre and the transmission system operators of the system operation region without undue delay. In such cases, the regional coordination centre shall assess the impact of that decision on the other transmission system operators of the system operation region and may propose a different set of coordinated actions subject to the procedure set out in paragraph 1.

3. Regional coordination centres shall issue recommendations to the transmission system operators in relation to the tasks listed in points (c) to (p) of Article 37(1) or assigned in accordance with Article 37(2).

Where a transmission system operator decides to deviate from a recommendation as referred to in paragraph 1, it shall submit a justification for its decision to regional coordination centres and to the other transmission system operators of the system operation region without undue delay.

4. The review of coordinated actions or a recommendation shall be triggered at the request of one or more of the transmission system operators of the system operation region. Following the review of the coordinated action or recommendation, regional coordination centres shall confirm or modify the measure.

5. Where a coordinated action is subject to review in accordance with paragraph 4 of this Article, the request for review shall not suspend the coordinated action except where the implementation of the coordinated action would result in a violation of the operational security limits defined by each individual transmission system operator in accordance with the system operation guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009.

▼B

6. Upon the proposal of a Member State or the Commission and following consultation with the Committee established by Article 68 of Directive (EU) 2019/944, the Member States in a system operation region may jointly decide to grant the competence to issue coordinated actions to their regional coordination centre for one or more of the tasks provided for in points (c) to (p) of Article 37(1) of this Regulation.

*Article 43***Management board of regional coordination centres**

1. In order to adopt measures related to their governance and to monitor their performance, the regional coordination centres shall establish a management board.

2. The management board shall be composed of members representing all the transmission system operators that participate in the relevant regional coordination centre.

3. The management board shall be responsible for:

- (a) drafting and endorsing the statutes and rules of procedure of regional coordination centres;
- (b) deciding upon and implementing the organisational structure;
- (c) preparing and endorsing the annual budget;
- (d) developing and endorsing the cooperative processes in accordance with Article 38.

4. The competences of the management board shall exclude those that are related to the day-to-day activities of regional coordination centres and the performance of its tasks.

*Article 44***Organisational structure**

1. The transmission system operators of a system operation region shall establish the organisational structure of regional coordination centres that supports the safety of their tasks.

Their organisational structure shall specify:

- (a) the powers, duties and responsibilities of the personnel;
- (b) the relationship and reporting lines between different parts and processes of the organisation.

2. Regional coordination centres may establish regional desks to address sub-regional specificities or establish back-up regional coordination centres for the efficient and reliable exercise of their tasks where proven to be strictly necessary.

*Article 45***Equipment and staff**

Regional coordination centres shall be equipped with all human, technical, physical and financial resources necessary for fulfilling their obligations under this Regulation and carrying out their tasks independently and impartially.

*Article 46***Monitoring and reporting**

1. Regional coordination centres shall establish a process for the continuous monitoring of at least:

- (a) their operational performance;
- (b) the coordinated actions and recommendations issued, the extent to which the coordinated actions and recommendations have been implemented by the transmission system operators and the outcome achieved;
- (c) the effectiveness and efficiency of each of the tasks for which they are responsible and, where applicable, the rotation of those tasks.

2. Regional coordination centres shall account for their costs in a transparent manner and report them to ACER and to the regulatory authorities in the system operation region.

3. Regional coordination centres shall submit an annual report on the outcome of the monitoring provided for in paragraph 1 and information on their performance to the ENTSO for Electricity, ACER, the regulatory authorities in the system operation region and the Electricity Coordination Group.

4. Regional coordination centres shall report any shortcomings that they identify in the monitoring process under paragraph 1 to the ENTSO for Electricity, the regulatory authorities in the system operation region, ACER and the other competent authorities of Member States responsible for the prevention and management of crisis situations. On the basis of that report, the relevant regulatory authorities of the system operation region may propose measures to address the shortcomings to the regional coordination centres.

5. Without prejudice to the need to protect security and the confidentiality of commercially sensitive information, regional coordination centres shall make public the reports referred to in paragraphs 3 and 4.

*Article 47***Liability**

In proposals for the establishment of regional coordination centres in accordance with Article 35, the transmission system operators in the system operation region shall include the necessary steps to cover liability related to the execution of regional coordination centres' tasks. The method employed to provide the cover shall take into account the legal status of regional coordination centres and the level of commercial insurance cover available.

▼B*Article 48***Ten-year network development plan****▼M1**

1. The Union-wide network development plan referred to under Article 30(1), point (b), shall include the modelling of the integrated network, including scenario development and an assessment of the resilience of the system. Relevant input parameters for the modelling such as assumptions on fuel and carbon prices or installation of renewables shall be fully consistent with the European resource adequacy assessment developed pursuant to Article 23.

▼B

The Union-wide network development plan shall, in particular:

- (a) build on national investment plans, taking into account regional investment plans as referred to in Article 34(1) of this Regulation, and, if appropriate, Union aspects of network planning as set out in Regulation (EU) No 347/2013; it shall be subject to a cost-benefit analysis using the methodology established as set out in Article 11 of that Regulation;
- (b) regarding cross-border interconnections, also build on the reasonable needs of different system users and integrate long-term commitments from investors referred to in Articles 44 and 51 of Directive (EU) 2019/944; and
- (c) identify investment gaps, in particular with respect to cross-border capacities.

In regard to point (c) of the first subparagraph, a review of barriers to the increase of cross-border capacity of the network arising from different approval procedures or practices may be annexed to the Union-wide network development plan.

2. ACER shall provide an opinion on the national ten-year network development plans to assess their consistency with the Union-wide network development plan. If ACER identifies inconsistencies between a national ten-year network development plan and the Union-wide network development plan, it shall recommend amending the national ten-year network development plan or the Union-wide network development plan as appropriate. If such a national ten-year network development plan is developed in accordance with Article 51 of Directive (EU) 2019/944, ACER shall recommend that the regulatory authority amend the national ten-year network development plan in accordance with Article 51(7) of that Directive and inform the Commission thereof.

*Article 49***Inter-transmission system operator compensation mechanism**

- 1. Transmission system operators shall receive compensation for costs incurred as a result of hosting cross-border flows of electricity on their networks.
- 2. The compensation referred to in paragraph 1 shall be paid by the operators of national transmission systems from which cross-border flows originate and the systems where those flows end.

▼B

3. Compensation payments shall be made on a regular basis with regard to a given period in the past. Ex-post adjustments of compensation paid shall be made where necessary, to reflect costs actually incurred.

The first period for which compensation payments are to be made shall be determined in the guidelines referred to in Article 61.

4. The Commission shall adopt delegated acts in accordance with Article 68, supplementing this Regulation, establishing the amounts of compensation payments payable.

5. The magnitude of cross-border flows hosted and the magnitude of cross-border flows designated as originating or ending in national transmission systems shall be determined on the basis of the physical flows of electricity actually measured during a given period.

6. The costs incurred as a result of hosting cross-border flows shall be established on the basis of the forward-looking long-run average incremental costs, taking into account losses, investment in new infrastructure, and an appropriate proportion of the cost of existing infrastructure, in so far as such infrastructure is used for the transmission of cross-border flows, in particular taking into account the need to guarantee security of supply. When establishing the costs incurred, recognised standard-costing methodologies shall be used. Benefits that a network incurs as a result of hosting cross-border flows shall be taken into account to reduce the compensation received.

7. For the purpose of the inter-transmission system operator compensation mechanism only, where transmission networks of two or more Member States form part, in whole or in part, of a single control block, the control block as a whole shall be considered as forming part of the transmission network of one of the Member States concerned, in order to avoid flows within control blocks being considered as cross-border flows under point (b) of Article 2(2) and giving rise to compensation payments under paragraph 1 of this Article. The regulatory authorities of the Member States concerned may decide which of the Member States concerned shall be that of which the control block as a whole is to be considered to form part.

Article 50

Provision of information

1. Transmission system operators shall put in place coordination and information exchange mechanisms to ensure the security of the networks in the context of congestion management.

2. The safety, operational and planning standards used by transmission system operators shall be made public. The information published shall include a general scheme for the calculation of the total transfer capacity and the transmission reliability margin based upon the electrical and physical features of the network. Such schemes shall be subject to approval by the regulatory authorities.

3. Transmission system operators shall publish estimates of available transfer capacity for each day, indicating any available transfer capacity already reserved. Those publications shall be made at specified

▼B

intervals before the day of transport and shall include, in any event, week-ahead and month-ahead estimates, as well as a quantitative indication of the expected reliability of the available capacity.

4. Transmission system operators shall publish relevant data on aggregated forecast and actual demand, on availability and actual use of generation and load assets, on availability and use of the networks and interconnections, on balancing power and reserve capacity and on the availability of flexibility. For the availability and actual use of small generation and load assets, aggregated estimate data may be used.

▼M2

4a. Transmission system operators shall publish in a transparent manner clear information on the capacity available for new connections in their areas of operation with high spatial granularity, respecting public security and data confidentiality, including the capacity under connection request and the possibility of flexible connection in congested areas. The publication shall include information on the criteria for the calculation of the available capacity for new connections. Transmission system operators shall update that information on a regular basis, at least every month.

Transmission system operators shall provide in a transparent manner clear information to system users about the status and treatment of their connection requests including, where relevant, information related to flexible connection agreements. They shall provide such information within three months of the submission of the request. Where the requested connection is neither granted nor permanently rejected, transmission system operators shall update that information on a regular basis, at least quarterly.

▼B

5. The market participants concerned shall provide the transmission system operators with the relevant data.

6. Generation undertakings which own or operate generation assets, where at least one generation asset has an installed capacity of at least 250 MW, or which have a portfolio comprising at least 400 MW of generation assets, shall keep at the disposal of the regulatory authority, the national competition authority and the Commission, for five years all hourly data per plant that is necessary to verify all operational dispatching decisions and the bidding behaviour at power exchanges, interconnection auctions, reserve markets and over-the-counter-markets. The per-plant and per hour information to be stored shall include, but shall not be limited to, data on available generation capacity and committed reserves, including allocation of those committed reserves on a per-plant level, at the times the bidding is carried out and when production takes place.

7. Transmission system operators shall exchange regularly a set of sufficiently accurate network and load flow data in order to enable load flow calculations for each transmission system operator in its relevant area. The same set of data shall be made available to the regulatory authorities, and to the Commission and Member States upon request. The regulatory authorities, Member States and the Commission shall

▼B

treat that set of data confidentially, and shall ensure that confidential treatment is also given by any consultant carrying out analytical work on their request, on the basis of those data.

*Article 51***Certification of transmission system operators**

1. The Commission shall examine any notification of a decision on the certification of a transmission system operator as laid down in Article 52(6) of Directive (EU) 2019/944 as soon as it is received. Within two months of receipt of such notification, the Commission shall deliver its opinion to the relevant regulatory authority as to its compatibility with Article 43 and either Article 52(2) or Article 53 of Directive (EU) 2019/944.

When preparing the opinion referred to in the first subparagraph, the Commission may request ACER to provide its opinion on the regulatory authority's decision. In such a case, the two-month period referred to in the first subparagraph shall be extended by two further months.

In the absence of an opinion by the Commission within the periods referred to in the first and second subparagraphs, the Commission shall be considered not to raise objections to the regulatory authority's decision.

2. Within two months of receipt of an opinion of the Commission, the regulatory authority shall adopt its final decision regarding the certification of the transmission system operator, taking the utmost account of that opinion. The regulatory authority's decision and the Commission's opinion shall be published together.

3. At any time during the procedure, regulatory authorities or the Commission may request from a transmission system operator or an undertaking performing any of the functions of generation or supply any information relevant to the fulfilment of their tasks under this Article.

4. Regulatory authorities and the Commission shall protect the confidentiality of commercially sensitive information.

5. Where the Commission has received notification of the certification of a transmission system operator under Article 43(9) of Directive (EU) 2019/944, the Commission shall take a decision relating to certification. The regulatory authority shall comply with the Commission decision.

CHAPTER VI

DISTRIBUTION SYSTEM OPERATION*Article 52***European entity for distribution system operators**

1. Distribution system operators shall cooperate at Union level through the EU DSO entity, in order to promote the completion and functioning of the internal market for electricity, and to promote optimal management and a coordinated operation of distribution and transmission systems. Distribution system operators who wish to participate in the EU DSO entity shall have the right to become registered members of the entity.

▼B

Registered members may participate in the EU DSO entity directly or be represented by a national association designated by the Member State or by a Union-level association.

2. Distribution system operators are entitled to associate themselves through the establishment of the EU DSO entity. The EU DSO entity shall carry out its tasks and procedures in accordance with Article 55. As an expert entity working for the common Union interest, the EU DSO entity shall neither represent particular interests nor seek to influence the decision-making process to promote specific interests.

3. Members of the EU DSO entity shall be subject to registration and to the payment of a fair and proportionate membership fee that reflects the number of customers connected to the distribution system operator concerned.

*Article 53***Establishment of the EU DSO entity**

1. The EU DSO entity shall consist of, at least, a general assembly, a board of directors, a strategic advisor group, expert groups and a secretary-general.

2. By 5 July 2020, the distribution system operators shall submit to the Commission and to ACER, the draft statutes, in accordance with Article 54, including a code of conduct, a list of registered members, the draft rules of procedure, including the rules of procedures on the consultation with the ENTSO for Electricity and other stakeholders and the financing rules, of the EU DSO entity to be established.

The draft rules of procedure of the EU DSO entity shall ensure balanced representation of all participating distribution system operators.

3. Within two months of receipt of the draft statutes, the list of members and the draft rules of procedure, ACER shall provide the Commission with its opinion, after consulting the organisations representing all stakeholders, in particular distribution system users.

4. Within three months of receipt of ACER's opinion, the Commission shall deliver an opinion on the draft statutes, the list of members and the draft rules of procedure, taking into account ACER's opinion as provided for in paragraph 3.

5. Within three months of receipt of the Commission's positive opinion, the distribution system operators shall establish the EU DSO entity and shall adopt and publish its statutes and rules of procedure.

6. The documents referred to in paragraph 2 shall be submitted to the Commission and to ACER where there are changes thereto or upon the reasoned request of either of them. The Commission and ACER shall deliver an opinion in line with the process set out in paragraphs 2, 3 and 4.

7. The costs related to the activities of the EU DSO entity shall be borne by the distribution system operators that are registered members and shall be taken into account in the calculation of tariffs. Regulatory authorities shall only approve costs that are reasonable and proportionate.



Article 54

Principal rules and procedures for the EU DSO entity

1. The statutes of the EU DSO entity adopted in accordance with Article 53 shall safeguard the following principles:

- (a) participation in the work of the EU DSO entity is limited to registered members with the possibility of delegation within the membership;
- (b) strategic decisions regarding the activities of the EU DSO entity as well as policy guidelines for the board of directors are adopted by the general assembly;
- (c) decisions of the general assembly are adopted according with the following rules:
 - (i) each member disposes of a number of votes proportional to the number of that member's customers;
 - (ii) 65 % of the votes attributed to the members are cast; and
 - (iii) the decision is adopted by a majority of 55 % of the members;
- (d) decisions of the general assembly are rejected according with the following rules:
 - (i) each member disposes of a number of votes proportional to the number of that member's customers;
 - (ii) 35 % of the votes attributed to the members are cast; and
 - (iii) the decision is rejected by at least 25 % of the members;
- (e) the board of directors is elected by the general assembly for a mandate of a maximum of four years;
- (f) the board of directors nominates the President and the three Vice-Presidents from among the members of the board;
- (g) cooperation between transmission system operators and distribution system operators pursuant to Articles 56 and 57 is led by the board of directors;
- (h) decisions of the board of directors are adopted by an absolute majority;
- (i) on the basis of a proposal by the board of directors, the secretary general is appointed by the general assembly from among its members for a mandate of four years, renewable once;
- (j) on the basis of a proposal by the board of directors, Expert Groups are appointed by the general assembly and do not exceed 30 members, with the possibility of one-third of the members coming from outside the membership of EU DSO; in addition, one 'country' expert group shall be established and shall consist of one representative of distribution system operators from each Member State.

2. Procedures adopted by the EU DSO entity shall safeguard the fair and proportionate treatment of its members and shall reflect the diverse geographical and economic structure of its membership. In particular, the procedures shall provide that:

▼B

- (a) the board of directors is composed of the President of the Board and 27 members' representatives, of which:
 - (i) nine are representatives of members with more than 1 million grid users;
 - (ii) nine are representatives of members with more than 100 000 and less than 1 million grid users; and
 - (iii) nine are representatives of members with less than 100 000 grid users;
- (b) representatives of existing DSO associations are permitted to participate as observers at the meetings of the board of directors;
- (c) the board of directors are not permitted to consist of more than three representatives of members who are based in the same Member State or in the same industrial group;
- (d) each Vice-President of the Board is nominated among representatives of members in each category described in point (a);
- (e) representatives of members who are based in one Member State or the same industrial group do not constitute the majority of the participants in the Expert Group;
- (f) the board of directors establishes a Strategic Advisory group that provides its opinion to the board of directors and the Expert Groups and consists of representatives of the European DSO associations and representatives of those Member States which are not represented in the board of directors.

*Article 55***Tasks of the EU DSO entity**

1. The tasks of the EU DSO entity shall be the following:
 - (a) promoting operation and planning of distribution networks in coordination with the operation and planning of transmission networks;
 - (b) facilitating the integration of renewable energy resources, distributed generation and other resources embedded in the distribution network such as energy storage;
 - (c) facilitating demand side flexibility and response and distribution grid users' access to markets;
 - (d) contributing to the digitalisation of distribution systems including deployment of smart grids and intelligent metering systems;
 - (e) supporting the development of data management, cyber security and data protection in cooperation with relevant authorities and regulated entities;
 - (f) participating in the development of network codes which are relevant to the operation and planning of distribution grids and the coordinated operation of the transmission networks and distribution networks pursuant to Article 59.
2. In addition the EU DSO entity shall:

▼B

- (a) cooperate with the ENTSO for Electricity on the monitoring of implementation of the network codes and guidelines adopted pursuant to this Regulation which are relevant to the operation and planning of distribution grids and the coordinated operation of the transmission networks and distribution networks;
- (b) cooperate with the ENTSO for Electricity and adopt best practices on the coordinated operation and planning of transmission and distribution systems including issues such as exchange of data between operators and coordination of distributed energy resources;
- (c) work on identifying best practices on the areas identified in paragraph 1 and for the introduction of energy efficiency improvements in the distribution network;
- (d) adopt an annual work programme and an annual report;
- (e) operate in accordance with competition law and ensure neutrality.

*Article 56***Consultations in the network code development process**

1. While participating in the development of new network codes pursuant to Article 59, the EU DSO entity shall conduct an extensive consultation process, at an early stage and in an open and transparent manner, involving all relevant stakeholders, and, in particular, organisations representing such stakeholders, in accordance with the rules of procedure on consultation referred to in Article 53. That consultation shall also involve regulatory authorities and other national authorities, supply and generation undertakings, system users including customers, technical bodies and stakeholder platforms. It shall aim at identifying the views and proposals of all relevant parties during the decision-making process.
2. All documents and minutes of meetings related to the consultations referred to in paragraph 1 shall be made public.
3. The EU DSO entity shall take into consideration the views provided during the consultations. Before adopting proposals for the network codes referred to in Article 59 the EU DSO entity shall indicate how it has taken the observations received during the consultation into consideration. It shall provide reasons where it has not taken such observations into account.

*Article 57***Cooperation between distribution system operators and transmission system operators**

1. Distribution system operators and transmission system operators shall cooperate with each other in planning and operating their networks. In particular, distribution system operators and transmission system operators shall exchange all necessary information and data regarding, the performance of generation assets and demand side response, the daily operation of their networks and the long-term planning of network investments, with the view to ensure the cost-efficient, secure and reliable development and operation of their networks.

▼B

2. Distribution system operators and transmission system operators shall cooperate with each other in order to achieve coordinated access to resources such as distributed generation, energy storage or demand response that may support particular needs of both the distribution system operators and the transmission system operators.

▼M2

3. Distribution system operators and transmission system operators shall cooperate with each other in publishing, in a consistent manner, consistent information on the capacity available for new connections in their respective areas of operation that provides sufficient granular visibility to developers of new energy projects and other potential network users.

▼B

CHAPTER VII

NETWORK CODES AND GUIDELINES

*Article 58***Adoption of network codes and guidelines**

1. The Commission may, subject to the empowerments in Articles 59, 60 and 61, adopt implementing or delegated acts. Such acts may either be adopted as network codes on the basis of text proposals developed by the ENTSO for Electricity, or, where so provided for in the priority list pursuant to Article 59(3), by the EU DSO entity, where relevant in cooperation with the ENTSO for Electricity, and ACER pursuant to the procedure in Article 59, or as guidelines pursuant to the procedure in Article 61.

2. The network codes and guidelines shall:

- (a) ensure that they provide the minimum degree of harmonisation required to achieve the aims of this Regulation;
- (b) take into account regional specificities, where appropriate;
- (c) not go beyond what is necessary for the purposes of point (a); and
- (d) be without prejudice to the Member States' right to establish national network codes which do not affect cross-zonal trade.

*Article 59***Establishment of network codes**

1. The Commission is empowered to adopt implementing acts in order to ensure uniform conditions for the implementation of this Regulation by establishing network codes in the following areas:

- (a) network security and reliability rules including rules for technical transmission reserve capacity for operational network security as well as interoperability rules implementing Articles 34 to 47 and Article 57 of this Regulation and Article 40 of Directive (EU) 2019/944, including rules on system states, remedial actions

▼B

and operational security limits, voltage control and reactive power management, short-circuit current management, power flow management, contingency analysis and handling, protection equipment and schemes, data exchange, compliance, training, operational planning and security analysis, regional operational security coordination, outage coordination, availability plans of relevant assets, adequacy analysis, ancillary services, scheduling, and operational planning data environments;

▼M2

- (b) capacity-allocation and congestion- management rules pursuant to Articles 7 to 10, 13 to 17, 19 and 35 to 37 of this Regulation and Article 6 of Directive (EU) 2019/944, including rules on day-ahead, intraday and forward capacity calculation methodologies and processes, grid models, bidding zone configuration, redispatching and countertrading, trading algorithms, single day-ahead and intraday coupling, different governance options, the firmness of allocated cross-zonal capacity, congestion income distribution, the details and specific features of the tools referred to in Article 9(3) of this Regulation by reference to the elements specified in paragraphs (4) and (5) thereof, the allocation and facilitation of trading of financial long-term transmission rights by the single allocation platform as well as the frequency, maturity and specific nature of such long-term transmission rights, cross-zonal transmission risk hedging, nomination procedures, and capacity allocation and congestion management cost recovery, and methodology for compensating offshore renewable electricity plant operators for capacity reductions;

▼B

- (c) rules implementing Articles 5, 6 and 17 in relation to trading related to technical and operational provision of network access services and system balancing, including rules on network-related reserve power, including functions and responsibilities, platforms for the exchange of balancing energy, gate closure times, requirements for standard and specific balancing products, procurement of balancing services, allocation of cross-zonal capacity for the exchange of balancing services or sharing of reserves, settlement of balancing energy, settlement of exchanges of energy between system operators, imbalance settlement and settlement of balancing capacity, load frequency control, frequency quality defining and target parameters, frequency containment reserves, frequency restoration reserves, replacement reserves, exchange and sharing of reserves, cross-border activation processes of reserves, time-control processes and transparency of information;
- (d) rules implementing Articles 36, 40 and 54 of Directive (EU) 2019/944 in relation to non-discriminatory, transparent provision of non-frequency ancillary services,, including rules on

▼B

steady state voltage control, inertia, fast reactive current injection, inertia for grid stability, short circuit current, black-start capability and island operation capability;

- (e) rules implementing Article 57 of this Regulation and Articles 17, 31, 32, 36, 40 and 54 of Directive (EU) 2019/944 in relation to demand response, including rules on aggregation, energy storage, and demand curtailment rules.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(2).

2. The Commission is empowered to adopt delegated acts in accordance with Article 68 supplementing this Regulation with regard to the establishment of network codes in the following areas:

▼M2

- (a) network connection rules including rules on the connection of transmission-connected demand facilities, transmission-connected distribution facilities and distribution systems, connection of demand units used to provide demand response, requirements for grid connection of generators and other system users, requirements for high-voltage direct current grid connection, requirements for direct current-connected power park modules and remote-end high-voltage direct current converter stations, and operational notification procedures for grid connection;

▼B

- (b) data exchange, settlement and transparency rules, including in particular rules on transfer capacities for relevant time horizons, estimates and actual values on the allocation and use of transfer capacities, forecast and actual demand of facilities and aggregation thereof including unavailability of facilities, forecast and actual generation of generation units and aggregation thereof including unavailability of units, availability and use of networks, congestion management measures and balancing market data. Rules should include ways in which the information is published, the timing of publication, the entities responsible for handling;
- (c) third-party access rules;
- (d) operational emergency and restoration procedures in an emergency including system defence plans, restoration plans, market interactions, information exchange and communication and tools and facilities;
- (e) sector-specific rules for cyber security aspects of cross-border electricity flows, including rules on common minimum requirements, planning, monitoring, reporting and crisis management.

3. The Commission shall, after consulting ACER, the ENTSO for Electricity, the EU DSO entity and the other relevant stakeholders, establish a priority list every three years, identifying the areas set out in paragraphs 1 and 2 to be included in the development of network codes.

▼B

If the subject matter of the network code is directly related to the operation of the distribution system and not primarily relevant to the transmission system, the Commission may require the EU DSO entity, in cooperation with the ENTSO for Electricity, to convene a drafting committee and submit a proposal for a network code to ACER.

4. The Commission shall request ACER to submit to it within a reasonable period not exceeding six months of receipt of the Commission's request non-binding framework guidelines setting out clear and objective principles for the development of network codes relating to the areas identified in the priority list (framework guideline). The request of the Commission may include conditions which the framework guideline shall address. Each framework guideline shall contribute to market integration, non-discrimination, effective competition, and the efficient functioning of the market. Upon a reasoned request from ACER, the Commission may extend the period for submitting the guidelines.

5. ACER shall consult the ENTSO for Electricity, the EU DSO entity, and the other relevant stakeholders in regard to the framework guideline, during a period of no less than two months, in an open and transparent manner.

6. ACER shall submit a non-binding framework guideline to the Commission where requested to do so under paragraph 4.

7. If the Commission considers that the framework guideline does not contribute to market integration, non-discrimination, effective competition and the efficient functioning of the market, it may request ACER to review the framework guideline within a reasonable period and resubmit it to the Commission.

8. If ACER fails to submit or resubmit a framework guideline within the period set by the Commission under paragraph 4 or 7, the Commission shall develop the framework guideline in question.

9. The Commission shall request the ENTSO for Electricity or, where provided for in the priority list referred to in paragraph 3, the EU DSO entity in cooperation with the ENTSO for Electricity, to submit a proposal for a network code in accordance with the relevant framework guideline, to ACER within a reasonable period, not exceeding 12 months, of receipt of the Commission's request.

10. The ENTSO for Electricity, or where provided for in the priority list referred to in paragraph 3 the EU DSO entity, in cooperation with the ENTSO for Electricity, shall convene a drafting committee to support it in the network code development process. The drafting committee shall consist of representatives of ACER, the ENTSO for Electricity, where appropriate the EU DSO entity and NEMOs, and a limited number of the main affected stakeholders. The ENTSO for Electricity or where provided for in the priority list pursuant to paragraph 3 the EU DSO entity, in cooperation with the ENTSO for Electricity, shall develop proposals for network codes in the areas referred to in paragraphs 1 and 2 where so requested by the Commission in accordance with paragraph 9.

▼B

11. ACER shall revise the proposed network code to ensure that the network code to be adopted complies with the relevant framework guidelines and contributes to market integration, non-discrimination, effective competition, and the efficient functioning of the market and, submit the revised network code to the Commission within six months of receipt of the proposal. In the proposal submitted to the Commission, ACER shall take into account the views provided by all involved parties during the drafting of the proposal led by the ENTSO for Electricity or the EU DSO entity and shall consult the relevant stakeholders on the version to be submitted to the Commission.

12. Where the ENTSO for Electricity or the EU DSO entity have failed to develop a network code within the period set by the Commission under paragraph 9, the Commission may request ACER to prepare a draft network code on the basis of the relevant framework guideline. ACER may launch a further consultation in the course of preparing a draft network code under this paragraph. ACER shall submit a draft network code prepared under this paragraph to the Commission and may recommend that it be adopted.

13. The Commission may adopt, on its own initiative, where the ENTSO for Electricity or the EU DSO entity have failed to develop a network code, or ACER has failed to develop a draft network code as referred to in paragraph 12, or upon the proposal of ACER under paragraph 11, one or more network codes in the areas listed in paragraphs 1 and 2.

14. Where the Commission proposes to adopt a network code on its own initiative, the Commission shall consult ACER, the ENTSO for Electricity and all relevant stakeholders in regard to the draft network code during a period of no less than two months.

15. This Article shall be without prejudice to the Commission's right to adopt and amend the guidelines as laid down in Article 61. It shall be without prejudice to the possibility for the ENTSO for Electricity to develop non-binding guidance in the areas set out in paragraphs 1 and 2 where such guidance does not relate to areas covered by a request addressed to the ENTSO for Electricity by the Commission. The ENTSO for Electricity shall submit any such guidance to ACER for an opinion and shall duly take that opinion into account.

Article 60

Amendments of network codes

1. The Commission is empowered to amend the network codes within the areas listed in Article 59(1) and (2) in accordance with the relevant procedure set out in that Article. ACER may also propose amendments to the networks codes in accordance with paragraphs 2 and 3 of this Article.

2. Persons who are likely to have an interest in any network code adopted under Article 59, including the ENTSO for Electricity, the EU DSO entity, regulatory authorities, transmission system operators, distribution system operators, system users and consumers, may propose draft amendments to that network code to ACER. ACER may also propose amendments on its own initiative.

▼B

3. ACER may make reasoned proposals to the Commission for amendments, explaining how such proposals are consistent with the objectives of the network codes set out in Article 59(3) of this Regulation. Where it considers an amendment proposal to be admissible and where it proposes amendments on its own initiative, ACER shall consult all stakeholders in accordance with Article 14 of Regulation (EU) 2019/942.

*Article 61***Guidelines**

1. The Commission is empowered to adopt binding guidelines in the areas listed in this Article.

2. The Commission is empowered to adopt guidelines in the areas where such acts could also be developed under the network code procedure pursuant to Article 59(1) and (2). Those guidelines shall be adopted in the form of delegated or implementing acts, depending on the relevant empowerment provided for in this Regulation.

3. The Commission is empowered to adopt delegated acts in accordance with Article 68 supplementing this Regulation by setting out guidelines relating to the inter-transmission system operator compensation mechanism. Those guidelines shall specify, in accordance with the principles set out in Articles 18 and 49:

- (a) details of the procedure for determining which transmission system operators are liable to pay compensation for cross-border flows including as regards the split between the operators of national transmission systems from which cross-border flows originate and the systems where those flows end, in accordance with Article 49(2);
- (b) details of the payment procedure to be followed, including the determination of the first period for which compensation is to be paid, in accordance with the second subparagraph of Article 49(3);
- (c) details of methodologies for determining the cross-border flows hosted for which compensation is to be paid under Article 49, in terms of both quantity and type of flows, and the designation of the magnitudes of such flows as originating or ending in transmission systems of individual Member States, in accordance with Article 49(5);
- (d) details of the methodology for determining the costs and benefits incurred as a result of hosting cross-border flows, in accordance with Article 49(6);
- (e) details of the treatment of electricity flows originating or ending in countries outside the European Economic Area in the context of the inter-transmission system operator compensation mechanism; and
- (f) arrangements for the participation of national systems which are interconnected through direct current lines, in accordance with Article 49.

▼B

4. Where appropriate, the Commission may adopt implementing acts setting out guidelines providing the minimum degree of harmonisation required to achieve the aim of this Regulation. Those guidelines may specify:

- (a) details of rules for the trading of electricity implementing Article 6 of Directive (EU) 2019/944 and Articles 5 to 10, 13 to 17, 35, 36 and 37 of this Regulation;
- (b) details of investment incentive rules for interconnector capacity including locational signals implementing Article 19.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(2).

5. The Commission may adopt implementing acts setting out guidelines on operational coordination between transmission system operators at Union level. Those guidelines shall be consistent with and build upon the network codes referred to in Article 59 and shall build upon the adopted specifications referred to in point (i) of Article 30(1). When adopting those guidelines, the Commission shall take into account differing regional and national operational requirements.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(2).

6. When adopting or amending guidelines, the Commission shall consult ACER, the ENTSO for Electricity, the EU DSO entity and, where relevant, other stakeholders.

Article 62

Right of Member States to provide for more detailed measures

This Regulation shall be without prejudice to the rights of Member States to maintain or introduce measures that contain more detailed provisions than those set out in this Regulation, in the guidelines referred to in Article 61 or in the network codes referred to in Article 59, provided that those measures are compatible with Union law.

CHAPTER VIII

FINAL PROVISIONS

Article 63

New interconnectors

1. New direct current interconnectors may, upon request, be exempted, for a limited period, from Article 19(2) and (3) of this Regulation and from Articles 6 and 43, Article 59(7) and Article 60(1) of Directive (EU) 2019/944 provided that the following conditions are met:

▼B

- (a) the investment enhances competition in electricity supply;
- (b) the level of risk attached to the investment is such that the investment would not take place unless an exemption is granted;
- (c) the interconnector is owned by a natural or legal person which is separate, at least in terms of its legal form, from the system operators in whose systems that interconnector is to be built;
- (d) charges are levied on users of that interconnector;
- (e) since the partial market opening referred to in Article 19 of Directive 96/92/EC of the European Parliament and of the Council ⁽¹⁶⁾, no part of the capital or operating costs of the interconnector has been recovered from any component of charges made for the use of transmission or distribution systems linked by the interconnector; and
- (f) an exemption would not be to the detriment of competition or the effective functioning of the internal market for electricity, or the efficient functioning of the regulated system to which the interconnector is linked.

2. Paragraph 1 shall also apply, in exceptional cases, to alternating current interconnectors provided that the costs and risks of the investment in question are particularly high when compared with the costs and risks normally incurred when connecting two neighbouring national transmission systems by an alternating current interconnector.

3. Paragraph 1 shall also apply to significant increases of capacity in existing interconnectors.

4. The decision granting an exemption as referred to in paragraphs 1, 2 and 3 shall be taken on a case-by-case basis by the regulatory authorities of the Member States concerned. An exemption may cover all or part of the capacity of the new interconnector, or of the existing interconnector with significantly increased capacity.

Within two months of receipt of the request for exemption by the last of the regulatory authorities concerned, ACER may provide those regulatory authorities with an opinion. The regulatory authorities may base their decision on that opinion.

In deciding to grant an exemption, regulatory authorities shall take into consideration, on a case-by-case basis, the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the interconnector. When deciding on those conditions, regulatory authorities shall, in particular, take account of additional capacity to be built or the modification of existing capacity, the time-frame of the project and national circumstances.

⁽¹⁶⁾ Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity (OJ L 27, 30.1.1997, p. 20).

▼B

Before granting an exemption, the regulatory authorities of the Member States concerned shall decide on the rules and mechanisms for management and allocation of capacity. Those congestion-management rules shall include the obligation to offer unused capacity on the market and users of the facility shall be entitled to trade their contracted capacities on the secondary market. In the assessment of the criteria referred to in points (a), (b) and (f) of paragraph 1, the results of the capacity-allocation procedure shall be taken into account.

Where all the regulatory authorities concerned have reached agreement on the exemption decision within six months of receipt of the request, they shall inform ACER of that decision.

The exemption decision, including any conditions referred to in the third subparagraph of this paragraph, shall be duly reasoned and published.

5. The decision referred to in paragraph 4 shall be taken by ACER:

- (a) where the regulatory authorities concerned have not been able to reach an agreement within six months from the date on which the last of those regulatory authorities received the exemption request; or
- (b) upon a joint request from the regulatory authorities concerned.

Before taking such a decision, ACER shall consult the regulatory authorities concerned and the applicants.

6. Notwithstanding paragraphs 4 and 5, Member States may provide for the regulatory authority or ACER, as the case may be, to submit, for a formal decision, to the relevant body in the Member State, its opinion on the request for an exemption. That opinion shall be published together with the decision.

7. A copy of every request for exemption shall be transmitted for information without delay by the regulatory authorities to the Commission and ACER on receipt. The decision shall be notified, without delay, by the regulatory authorities concerned or by ACER (the notifying bodies), to the Commission, together with all the relevant information with respect to the decision. That information may be submitted to the Commission in aggregate form, enabling the Commission to reach a well-founded decision. In particular, the information shall contain:

- (a) the detailed reasons on the basis of which the exemption was granted or refused, including the financial information justifying the need for the exemption;
- (b) the analysis undertaken of the effect on competition and the effective functioning of the internal market for electricity resulting from the grant of the exemption;
- (c) the reasons for the time period and the share of the total capacity of the interconnector in question for which the exemption is granted; and
- (d) the result of the consultation of the regulatory authorities concerned.

▼B

8. Within 50 working days of the day following that of receipt of the notification under paragraph 7, the Commission may take a decision requesting the notifying bodies to amend or withdraw the decision to grant an exemption. That period may be extended by an additional 50 working days where further information is requested by the Commission. The additional period shall begin on the day following receipt of the complete information. The initial period may also be extended by consent of both the Commission and the notifying bodies.

Where the requested information is not provided within the period set out in the Commission's request, the notification shall be deemed to be withdrawn unless, before the expiry of that period, either the period is extended by consent of both the Commission and the notifying bodies, or the notifying bodies, in a duly reasoned statement, inform the Commission that they consider the notification to be complete.

The notifying bodies shall comply with a Commission decision to amend or withdraw the exemption decision within one month of receipt and shall inform the Commission accordingly.

The Commission shall protect the confidentiality of commercially sensitive information.

The Commission's approval of an exemption decision shall expire two years after the date of its adoption in the event that construction of the interconnector has not started by that date, and five years after the date of its adoption if the interconnector has not become operational by that date, unless the Commission decides, on the basis of a reasoned request by the notifying bodies, that any delay is due to major obstacles beyond the control of the person to whom the exemption has been granted.

9. Where the regulatory authorities of the Member States concerned decide to modify an exemption decision, they shall notify their decision to the Commission without delay, together with all the relevant information with respect to the decision. Paragraphs 1 to 8 shall apply to the decision to modify an exemption decision, taking into account the particularities of the existing exemption.

10. The Commission may, on request or on its own initiative, reopen proceedings relating to an exemption request where:

- (a) taking due account of the legitimate expectations of the parties and of the economic balance achieved in the original exemption decision, there has been a material change in any of the facts on which the decision was based;
- (b) the undertakings concerned act contrary to their commitments; or
- (c) the decision was based on incomplete, incorrect or misleading information, which was provided by the parties.

11. The Commission is empowered to adopt delegated acts in accordance with Article 68 supplementing this Regulation by specifying guidelines for the application of the conditions laid down in paragraph 1 of this Article and setting out the procedure to be followed for the application of paragraphs 4 and 7 to 10 of this Article.



Article 64

Derogations

1. Member States may apply for derogations from the relevant provisions of Articles 3 and 6, Article 7(1), Article 8(1) and (4), Articles 9, 10 and 11, Articles 14 to 17, Articles 19 to 27, Articles 35 to 47 and Article 51 provided that:

- (a) the Member State can demonstrate that there are substantial problems for the operation of small isolated systems and small connected systems;
- (b) outermost regions within the meaning of Article 349 TFEU cannot be interconnected with the Union's energy market for evident physical reasons.

In the situation referred to in point (a) of the first subparagraph, the derogation shall be limited in time and shall subject to conditions aiming to increase competition and integration with the internal market for electricity.

In the situation referred to in point (b) of the first subparagraph, the derogation shall not be limited in time.

The Commission shall inform the Member States of those applications before adopting the decision, protecting the confidentiality of commercially sensitive information.

A derogation granted under this Article shall aim to ensure that it does not obstruct the transition towards renewable energy, increased flexibility, energy storage, electromobility and demand response.

In its decision granting a derogation the Commission shall set out to what extent the derogation is to take into account the application of the network codes and guidelines.

2. Articles 3, 5 and 6, Article 7(1), points (c) and (g) of Article 7(2)) Articles 8 to 17, Article 18(5) and (6), Articles 19 and 20, Article 21 (1), (2) and (4) to (8), point (c) of Article 22(1), points (b) and (c) of Article 22(2), the last subparagraph of Article 22 (2), Articles 23 to 27, Article 34(1), (2) and (3), Articles 35 to 47, Article 48(2) and Articles 49 and 51 shall not apply to Cyprus until its transmission system is connected to other Member States' transmission systems via interconnections.

If the transmission system of Cyprus is not connected to other Member States' transmission systems by means of interconnections by 1 January 2026, Cyprus shall assess the need for derogation from those provisions and may submit a request to prolong the derogation to the Commission. The Commission shall assess whether the application of the provisions risks causing substantial problems to the operation of the electricity system in Cyprus or whether their application in Cyprus is expected to provide benefits to the functioning of the market. On the basis of that assessment, the Commission shall issue a reasoned decision to prolong the derogation in full or in part. The decision shall be published in the *Official Journal of the European Union*.

▼ M2

2a. By way of derogation from Article 6(9), (10) and (11), Estonia, Latvia and Lithuania, may conclude financial contracts for balancing capacity up to five years before the start of the provision of the balancing capacity. The duration of such contracts shall not extend beyond eight years after Estonia, Latvia and Lithuania have joined the Continental Europe Synchronous Area.

The regulatory authorities of Estonia, Latvia and Lithuania may allow their transmission system operators to allocate cross-zonal capacity on a market-based process as set out in Article 41 of Regulation (EU) 2017/2195, without volume limitations until six months after the day on which the co-optimised allocation process is fully implemented and operational pursuant to Article 38(3) of that Regulation.

2b. By way of derogation from Article 22(4), point (b), Member States may request that generation capacity that started commercial production before 4 July 2019 and that emits more than 550 g of CO₂ of fossil fuel origin per kWh of electricity and more than 350 kg CO₂ of fossil fuel origin on average per year per installed kW_e may, subject to compliance with Articles 107 and 108 TFEU, exceptionally be committed or receive payments or commitments for future payments after 1 July 2025 under a capacity mechanism approved by the Commission before 4 July 2019.

2c. The Commission shall assess the impact of the request referred to in paragraph 2b in terms of greenhouse gas emissions. The Commission may grant the derogation after assessing the report referred to in paragraph 2d, provided that the following conditions are fulfilled:

- (a) the Member State has carried out, on or after 4 July 2019, a competitive bidding process pursuant to Article 22 and for a delivery period after 1 July 2025, which aims to maximise the participation of capacity providers which meet the requirements in Article 22(4);
- (b) the amount of capacity offered in the competitive bidding process referred to in point (a) of this paragraph is not sufficient to address the adequacy concern as identified pursuant to Article 20(1) for the delivery period covered by that bidding process;
- (c) the generation capacity that emits more than 550 g of CO₂ of fossil fuel origin per kWh of electricity is committed or receives payments or commitments for future payments for a period not exceeding one year, and for a delivery period which does not exceed the duration of the derogation, and is procured through an additional procurement process which complies with all requirements of Article 22 except for those laid down in paragraph 4, point (b) of that Article and only for the amount of capacity that is needed to solve the adequacy concern referred to in point (b) of this paragraph.

The derogation pursuant to this paragraph may be applied until 31 December 2028, provided that the conditions set out therein are complied with for the entire duration of the derogation.

▼M2

2d. The request for the derogation referred to in paragraph 2b shall be accompanied by a report of the Member State which shall include:

- (a) an assessment of the impact of the derogation in terms of greenhouse gas emissions, and on the transition towards renewable energy, increased flexibility, energy storage, electromobility and demand response;
- (b) a plan with milestones to transition away from the participation of generation capacity referred to in paragraph 2b in capacity mechanisms by the date of the expiry of the derogation, including a plan to procure the necessary replacement capacity in line with the indicative national trajectory for the overall share of renewable energy and an assessment of the investment barriers causing the lack of sufficient bids in the competitive bidding procedure referred to in paragraph 2c, point (a).

▼B

3. This Regulation shall not affect the application of the derogations granted under Article 66 of Directive (EU) 2019/944.

4. In relation to the attainment of the 2030 interconnection target, as stipulated under Regulation (EU) 2018/1999, the electricity link between Malta and Italy shall be duly taken into account.

*Article 65***Provision of information and confidentiality**

1. Member States and the regulatory authorities shall, on request, provide the Commission with all the information necessary for the purposes of enforcing this Regulation.

The Commission shall set a reasonable time limit within which the information is to be provided, taking into account the complexity and urgency of the information required.

2. If the Member State or the regulatory authority concerned does not provide the information referred to in paragraph 1 within the time limit referred to in paragraph 1 the Commission may request all the information necessary for the purpose of enforcing this Regulation directly from the undertakings concerned.

When sending a request for information to an undertaking, the Commission shall, at the same time, forward a copy of the request to the regulatory authorities of the Member State in whose territory the seat of the undertaking is situated.

3. In its request for information under paragraph 1, the Commission shall state the legal basis of the request, the time limit within which the information is to be provided, the purpose of the request, and the penalties provided for in Article 66(2) for supplying incorrect, incomplete or misleading information.

4. The owners of the undertakings or their representatives and, in the case of legal persons, the natural persons authorised to represent the undertaking by law or by their instrument of incorporation, shall supply the information requested. Where lawyers are authorised to supply the information on behalf of their client, the client shall remain fully responsible in the event that the information supplied is incomplete, incorrect or misleading.

▼B

5. Where an undertaking does not provide the information requested within the time limit set by the Commission or supplies incomplete information, the Commission may by decision require the information to be provided. That decision shall specify what information is required and set an appropriate time limit within which it is to be supplied. It shall indicate the penalties provided for in Article 66(2). It shall also indicate the right to have the decision reviewed by the Court of Justice of the European Union.

The Commission shall, at the same time, send a copy of its decision to the regulatory authorities of the Member State within the territory of which the person is resident or the seat of the undertaking is situated.

6. The information referred to in paragraphs 1 and 2 shall be used only for the purposes of enforcing this Regulation.

The Commission shall not disclose information acquired pursuant to this Regulation where that information is covered by the obligation of professional secrecy.

*Article 66***Penalties**

1. Without prejudice to paragraph 2 of this Article, the Member States shall lay down the rules on penalties applicable to infringements of this Regulation, the network codes adopted pursuant to Article 59, and the guidelines adopted pursuant to Article 61 and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, without delay, notify the Commission of those rules and of those measures and shall notify it without delay of any subsequent amendment affecting them.

2. The Commission may, by decision, impose on undertakings fines not exceeding 1 % of the total turnover in the preceding business year where, intentionally or negligently, those undertakings supply incorrect, incomplete or misleading information in response to a request made pursuant to Article 65(3) or fail to supply information within the time-limit set in a decision adopted pursuant to the first subparagraph of Article 65(5). In setting the amount of a fine, the Commission shall have regard to the gravity of the failure to comply with the requirements referred to in paragraph 1 of this Article.

3. The penalties provided for pursuant to paragraph 1 and any decisions taken pursuant to paragraph 2 shall not be of a criminal law nature.

*Article 67***Committee procedure**

1. The Commission shall be assisted by the committee set up by Article 68 of Directive (EU) 2019/944. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.



Article 68

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 34(3), Article 49(4), Article 59(2), Article 61(2) and Article 63(11) shall be conferred on the Commission until 31 December 2028. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of that period and, if applicable, before the end of subsequent periods. The delegation of power shall be tacitly extended for periods of eight years, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 34(3), Article 49(4), Article 59(2), Article 61(2) and Article 63(11) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect on the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated act already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 34(3), Article 49(4), Article 59(2), Article 61(2) and Article 63(11) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 69

Commission reviews and reports

1. By 1 July 2025, the Commission shall review the existing network codes and guidelines in order to assess which of their provisions could be appropriately incorporated into legislative acts of the Union concerning the internal electricity market and how the empowerments for network codes and guidelines laid down in Articles 59 and 61 could be revised.

The Commission shall submit a detailed report of its assessment to the European Parliament and to the Council by the same date.

▼B

By 31 December 2026, the Commission shall, where appropriate, submit legislative proposals on the basis of its assessment.

▼M2

2. By 30 June 2026, the Commission shall review this Regulation and shall submit a comprehensive report to the European Parliament and to the Council on the basis of that review, accompanied by a legislative proposal where appropriate.

The Commission's report shall assess, inter alia:

- (a) the effectiveness of the current structure and functioning of the short-term electricity markets, including in crisis or emergency situations, and, more generally, the potential inefficiencies concerning the internal electricity market and the different options for the introduction of possible remedies and tools to be applied in crisis or emergency situations in view of the experience at international level and of the evolution and new developments in the internal electricity market;
- (b) the suitability of the current Union legal and financing framework on distribution grids to achieve the Union's renewable and internal energy market objectives.
- (c) in accordance with Article 19a, the potential and viability of the establishment of one or several Union market platforms for PPAs, to be used on a voluntary basis, including the interaction of those potential platforms with other existing electricity market platforms and the pooling of demand for PPAs through aggregation.

3. By 17 January 2025, the Commission shall submit to the European Parliament and to the Council a detailed report assessing possibilities of streamlining and simplifying the process of applying a capacity mechanism under Chapter IV, so as to ensure that adequacy concerns can be addressed by Member States in a timely manner. In that context, the Commission shall request that ACER amend the methodology for the European resource adequacy assessment referred to in Article 23 in accordance with Articles 23 and 27, as appropriate.

By 17 April 2025, the Commission shall, after consultation with Member States, submit proposals with a view to simplifying the process of assessing capacity mechanisms as appropriate.

Article 69a

Interaction with Union financial legal acts

This Regulation shall be without prejudice to the application of Regulations (EU) No 648/2012 and (EU) No 600/2014 and of Directive 2014/65/EU as regards activities of market participants or market operators involving financial instruments as defined in Article 4(1), point (15), of Directive 2014/65/EU.

*Article 70***Repeal**

Regulation (EC) No 714/2009 is repealed. References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex III.

*Article 71***Entry into force**

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

2. It shall apply from 1 January 2020.

Notwithstanding the first subparagraph, Articles 14, 15, 22(4), 23(3) and (6), 35, 36 and 62 shall apply from the date of entry into force of this Regulation. For the purpose of implementing Article 14(7) and Article 15(2), Article 16 shall apply from that date.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

▼B*ANNEX I*

TASKS OF REGIONAL COORDINATION CENTRES

1. Coordinated capacity calculation
- 1.1 Regional coordination centres shall carry out the coordinated calculation of cross-zonal capacities.

▼M2

- 1.2. Coordinated capacity calculation shall be performed for all allocation timeframes.

▼B

- 1.3 Coordinated capacity calculation shall be performed on the basis of the methodologies developed pursuant to the guideline on capacity allocation and congestion management adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009.
- 1.4 Coordinated capacity calculation shall be performed based on a common grid model in accordance with point 3.
- 1.5 Coordinated capacity calculation shall ensure an efficient congestion management in accordance with the principles of congestion management defined in this Regulation.
2. Coordinated security analysis
- 2.1 Regional coordination centres shall carry out a coordinated security analysis aiming to ensure secure system operation.
- 2.2 Security analysis shall be performed for all operational planning timeframes, between the year-ahead and intraday timeframes, using the common grid models.
- 2.3 Coordinated security analysis shall be performed on the basis of the methodologies developed pursuant to the system operation guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009.
- 2.4 Regional coordination centres shall share the results of the coordinated security analysis with at least the transmission system operators in the system operation region.
- 2.5 When as a result of the coordinated security analysis a regional coordination centre detects a possible constraint, it shall design remedial actions maximising effectiveness and economic efficiency.
3. Creation of common grid models
- 3.1 Regional coordination centres shall set up efficient processes for the creation of a common grid model for each operational planning timeframe between the year-ahead and intraday timeframes.
- 3.2 Transmission system operators shall appoint one regional coordination centre to build the Union-wide common grid models.
- 3.3 Common grid models shall be performed in accordance with the methodologies developed pursuant to the system operation guideline and the capacity allocation and congestion management guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009.
- 3.4 Common grid models shall include relevant data for efficient operational planning and capacity calculation in all operational planning timeframes between the year-ahead and intraday timeframes.

▼B

- 3.5 Common grid models shall be made available to all regional coordination centres, transmission system operators, ENTSO for Electricity and, upon request, to ACER.
4. Support for transmission system operators' defence and restoration plans with regard to the consistency assessment
 - 4.1 Regional coordination centres shall support the transmission system operators in the system operation region in carrying out the consistency assessment of transmission system operators' defence plans and restoration plans pursuant to the procedures set out in the network code on electricity emergency and restoration adopted on the basis of Article 6(11) of Regulation (EC) No 714/2009.
 - 4.2 All transmission system operators shall agree on a threshold above which the impact of actions of one or more transmission system operators in the emergency, blackout or restoration states is considered significant for other transmission system operators synchronously or non-synchronously interconnected.
 - 4.3 In providing support to the transmission system operators, the regional coordination centre shall:
 - (a) identify potential incompatibilities;
 - (b) propose mitigation actions.
 - 4.4 Transmission system operators shall assess and take into account the proposed mitigation actions.
5. Support the coordination and optimisation of regional restoration
 - 5.1 Each relevant regional coordination centre shall support the transmission system operators appointed as frequency leaders and the resynchronisation leaders pursuant to the network code on emergency and restoration adopted on the basis of Article 6(11) of Regulation (EC) No 714/2009 to improve the efficiency and effectiveness of system restoration. The transmission system operators in the system operation region shall establish the role of the regional coordination centre relating to the support to the coordination and optimisation of regional restoration.
 - 5.2 Transmission system operators may request assistance from regional coordination centres if their system is in a blackout or restoration state.
 - 5.3 Regional coordination centres shall be equipped with the close to real time supervisory control and data acquisition systems with the observability defined by applying the threshold referred to in point 4.2.
6. Post-operation and post-disturbances analysis and reporting
 - 6.1 Regional coordination centres shall investigate and prepare a report on any incident above the threshold referred to in point 4.2. The regulatory authorities in the system operation region and ACER may be involved in the investigation upon their request. The report shall contain recommendations aiming to prevent similar incidents in future.
 - 6.2 Regional coordination centres shall publish the report. ACER may issue recommendations aiming to prevent similar incidents in future.
7. Regional sizing of reserve capacity
 - 7.1 Regional coordination centres shall calculate the reserve capacity requirements for the system operation region. The determination of reserve capacity requirements shall:

▼B

- (a) pursue the general objective to maintain operational security in the most cost effective manner;
 - (b) be performed at the day-ahead or intraday timeframe, or both;
 - (c) calculate the overall amount of required reserve capacity for the system operation region;
 - (d) determine minimum reserve capacity requirements for each type of reserve capacity;
 - (e) take into account possible substitutions between different types of reserve capacity with the aim to minimise the costs of procurement;
 - (f) set out the necessary requirements for the geographical distribution of required reserve capacity, if any.
8. Facilitation of the regional procurement of balancing capacity
- 8.1 Regional coordination centres shall support the transmission system operators in the system operation region in determining the amount of balancing capacity that needs to be procured. The determination of the amount of balancing capacity shall:
- (a) be performed at the day-ahead or intraday timeframe, or both;
 - (b) take into account possible substitutions between different types of reserve capacity with the aim to minimise the costs of procurement;
 - (c) take into account the volumes of required reserve capacity that are expected to be provided by balancing energy bids, which are not submitted based on a contract for balancing capacity.
- 8.2 Regional coordination centres shall support the transmission system operators of the system operation region in procuring the required amount of balancing capacity determined in accordance with point 8.1. The procurement of balancing capacity shall:
- (a) be performed at the day-ahead or intraday timeframe, or both;
 - (b) take into account possible substitutions between different types of reserve capacity with the aim to minimise the costs of procurement.
9. Week-ahead to at least day-ahead regional system adequacy assessments and preparation of risk reducing actions
- 9.1 Regional coordination centres shall carry out week-ahead to at least day-ahead regional adequacy assessments in accordance with the procedures set out in Regulation (EU) 2017/1485 and on the basis of the methodology developed pursuant Article 8 of Regulation (EU) 2019/941.
- 9.2 Regional coordination centres shall base the short-term regional adequacy assessments on the information provided by the transmission system operators of system operation region with the aim of detecting situations where a lack of adequacy is expected in any of the control areas or at regional level. Regional coordination centres shall take into account possible cross-zonal exchanges and operational security limits in all relevant operational planning timeframes.
- 9.3 When performing a regional system adequacy assessment, each regional coordination centre shall coordinate with other regional coordination centres to:
- (a) verify the underlying assumptions and forecasts;
 - (b) detect possible cross-regional lack of adequacy situations.

▼B

- 9.4 Each regional coordination centre shall deliver the results of the regional system adequacy assessments together with the actions it proposes to reduce risks of lack of adequacy to the transmission system operators in the system operation region and to other regional coordination centres.
10. Regional outage planning coordination
- 10.1 Each Regional coordination centre shall carry out regional outage coordination in accordance with the procedures set out in the system operation guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009 in order to monitor the availability status of the relevant assets and coordinate their availability plans to ensure the operational security of the transmission system, while maximising the capacity of the interconnectors and the transmission systems affecting cross-zonal flows.
- 10.2 Each Regional coordination centre shall maintain a single list of relevant grid elements, power generating modules and demand facilities of the system operation region and make it available on the ENTSO for Electricity operational planning data environment.
- 10.3 Each Regional coordination centre shall carry out the following activities related to outage coordination in the system operation region:
- (a) assess outage planning compatibility using all transmission system operators' year-ahead availability plans;
 - (b) provide the transmission system operators in the system operation region with a list of detected planning incompatibilities and the solutions it proposes to solve the incompatibilities.
11. Optimisation of inter-transmission system operator compensation mechanisms
- 11.1 The transmission system operators in the system operation region may jointly decide to receive support from the regional coordination centre in administering the financial flows related to settlements between transmission system operators involving more than two transmission system operators, such as redispatching costs, congestion income, unintentional deviations or reserve procurement costs.
12. Training and certification of staff working for regional coordination centres
- 12.1 Regional coordination centres shall prepare and carry out training and certification programmes focusing on regional system operation for the personnel working for regional coordination centres.
- 12.2 The training programs shall cover all the relevant components of system operation, where the regional coordination centre performs tasks including scenarios of regional crisis.
13. Identification of regional electricity crisis scenarios
- 13.1 If the ENTSO for Electricity delegates this function, regional coordination centres shall identify regional electricity crisis scenarios in accordance with the criteria set out in Article 6(1) of Regulation (EU) 2019/941.

The identification of regional electricity crisis scenarios shall be performed in accordance with the methodology set out in Article 5 of Regulation (EU) 2019/941.

▼B

- 13.2 Regional coordination centres shall support the competent authorities of each system operation region upon their request in the preparation and carrying out of biennial crisis simulation in accordance with Article 12(3) of Regulation (EU) 2019/941.
14. Identification of needs for new transmission capacity, for upgrade of existing transmission capacity or their alternatives
- 14.1 Regional coordination centres shall support transmission system operators in the identification of needs for new transmission capacity, for an upgrade of existing transmission capacity or for their alternatives, to be submitted to the regional groups established pursuant to Regulation (EU) No 347/2013 and to be included in the ten-year network development plan referred to in Article 51 of Directive (EU) 2019/944.
15. Calculation of the maximum entry capacity available for the participation of foreign capacity in capacity mechanisms
- 15.1 Regional coordination centres shall support transmission system operator in calculating the maximum entry capacity available for the participation of foreign capacity in capacity mechanisms taking into account the expected availability of interconnection and the likely concurrence of system stress between the system where the mechanism is applied and the system in which the foreign capacity is located.
- 15.2 The calculation shall be performed in accordance with the methodology set out in point (a) of Article 26(11).
- 15.3 Regional coordination centres shall provide a calculation for each bidding zone border covered by the system operation region.
16. Preparation of seasonal adequacy assessments
- 16.1 If the ENTSO for Electricity delegates this function pursuant to Article 9 of Regulation (EU) 2019/941, regional coordination centres shall carry out regional seasonal adequacy assessments.
- 16.2 The preparation of seasonal adequacy assessments shall be carried out on the basis of the methodology developed pursuant to Article 8 of Regulation (EU) 2019/941.

*ANNEX II*REPEALED REGULATION WITH LIST OF THE SUCCESSIVE
AMENDMENTS THERETO

Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 (OJ L 115, 25.4.2013, p. 39)	Point (a) of Article 8(3) Point (a) of Article 8(10) Article 11 Article 18(4a) Article 23(3)
Commission Regulation (EU) No 543/2013 of 14 June 2013 on submission and publication of data in electricity markets and amending Annex I to Regulation (EC) No 714/2009 of the European Parliament and of the Council (OJ L 163, 15.6.2013, p. 1)	Points 5.5 to 5.9 of Annex I



ANNEX III

CORRELATION TABLE

Regulation (EC) No 714/2009	This Regulation
—	Article 1(a)
—	Article 1(b)
Article 1(a)	Article 1(c)
Article 1(b)	Article 1(d)
Article 2(1)	Article 2(1)
Article 2(2)(a)	Article 2(2)
Article 2(2)(b)	Article 2(3)
Article 2(2)(c)	Article 2(4)
Article 2(2)(d)	—
Article 2(2)(e)	—
Article 2(2)(f)	—
Article 2(2)(g)	Article 2 (5)
—	Article 2 (6) to (71)
—	Article 3
—	Article 4
—	Article 5
—	Article 6
—	Article 7
—	Article 8
—	Article 9
—	Article 10
—	Article 11
—	Article 12
—	Article 13
—	Article 14
—	Article 15
Article 16(1) to (3)	Article 16(1) to (4)
—	Article 16(5) to (8)
Article 16(4) to (5)	Article 16(9) to (11)
—	Article 16(12) and (13)
—	Article 17
Article 14(1)	Article 18(1)
—	Article 18(2)
Article 14(2) to (5)	Article 18(3) to (6)
—	Article 18(7) to (11)
—	Article 19(1)
Article 16(6)	Article 19(2) and (3)

▼B

Regulation (EC) No 714/2009	This Regulation
—	Article 19(4) and (5)
—	Article 20
—	Article 21
—	Article 22
Article 8(4)	Article 23(1)
—	Article 23(2) to (7)
—	Article 25
—	Article 26
—	Article 27
Article 4	Article 28(1)
—	Article 28(2)
Article 5	Article 29 (1) to (4)
—	Article 29(5)
Article 8(2) (first sentence)	Article 30(1)(a)
Article 8(3)(b)	Article 30(1)(b)
—	Article 30(1)(c)
Article 8(3)(c)	Article 30 (1)(d)
—	Article 30 (1)(e) and (f)
	Article 30(1) (g) and (h)
Article 8 (3)(a)	Article 30(1)(i)
Article 8(3)(d)	Article 30(1)(j)
	Article 30(1)(k)
Article 8(3)(e)	Article 30(1)(l)
	Article 30(1)(m) to (o)
—	Article 30(2) and (3)
Article 8(5)	Article 30(4)
Article 8(9)	Article 30(5)
Article 10	Article 31
Article 9	Article 32
Article 11	Article 33
Article 12	Article 34
—	Article 35
—	Article 36
—	Article 37
—	Article 38
—	Article 39
—	Article 40
	Article 41

▼B

Regulation (EC) No 714/2009	This Regulation
—	Article 42
—	Article 43
—	Article 44
—	Article 45
—	Article 46
—	Article 47
Article 8(10)	Article 48
Article 13	Article 49
Article 2(2) (final subparagraph)	Article 49(7)
Article 15	Article 50(1) to (6)
Annex I point 5.10	Article 50(7)
Article 3	Article 51
—	Article 52
—	Article 53
—	Article 54
—	Article 55
—	Article 56
—	Article 57
—	Article 58
Article 8(6)	Article 59(1)(a), (b) and (c)
—	Article 59(1)(d) and (e)
—	Article 59(2)
Article 6(1)	Article 59(3)
Article 6(2)	Article 59(4)
Article 6(3)	Article 59(5)
—	Article 59(6)
Article 6(4)	Article 59(7)
Article 6(5)	Article 59(8)
Article 6(6)	Article 59(9)
Article 8(1)	Article 59(10)
Article 6(7)	—
Article 6(8)	—
Article 6(9) and (10)	Article 59(11) and (12)
Article 6(11)	Article 59(13) and (14)
Article 6 (12)	Article 59(15)
Article 8(2)	Article 59(15)
—	Article 60(1)

▼B

Regulation (EC) No 714/2009	This Regulation
Article 7(1)	Article 60(2)
Article 7(2)	Article 60(3)
Article 7(3)	—
Article 7(4)	—
—	Article 61(1)
—	Article 61(2)
Article 18(1)	Article 61(3)
Article 18(2)	—
Article 18(3)	Article 61(4)
Article 18(4)	—
Article 18(4a)	Article 61(5)
Article 18(5)	Article 61(5) and (6)
Article 19	—
Article 21	Article 62
Article 17	Article 63
—	Article 64
Article 20	Article 65
Article 22	Article 66
Article 23	Article 67
Article 24	—
—	Article 68
—	Article 69
Article 25	Article 70
Article 26	Article 71