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INFORMATION NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council
Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on risk-preparedness in the electricity sector and repealing Directive 2005/89/EC
- Outcome of the European Parliament's first reading,
(Strasbourg, 25 to 28 March 2019)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

¹ OJ C 145, 30.6.2007, p.5

In this context, the rapporteur, Flavio ZANONATO (S&D, IT), presented one compromise amendment (amendment 63) to the proposal for a Regulation on behalf of the Committee on Industry, Research and Energy. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

II. VOTE

When it voted on 26 March 2019, the plenary adopted the compromise amendment (amendment 63) to the proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

Risk-preparedness in the electricity sector *I**

European Parliament legislative resolution of 26 March 2019 on the proposal for a regulation of the European Parliament and of the Council on risk-preparedness in the electricity sector and repealing Directive 2005/89/EC (COM(2016)0862 – C8-0493/2016 – 2016/0377(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0862),
 - having regard to Article 294(2) and Article 194(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0493/2016),
 - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 31 May 2017³,
 - having regard to the opinion of the Committee of the Regions of 13 July 2017⁴,
 - having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 5 December 2018 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 and 39 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy (A8-0039/2018),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

³ OJ C 288, 31.8.2017, p. 91.

⁴ OJ C 342, 12.10.2017, p. 79.

Position of the European Parliament adopted at first reading on 26 March 2019 with a view to the adoption of Regulation (EU) 2019/... of the European Parliament and of the Council on risk-preparedness in the electricity sector and repealing Directive 2005/89/EC

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁵,

Having regard to the opinion of the Committee of the Regions⁶,

Acting in accordance with the ordinary legislative procedure⁷,

⁵ OJ C 288, 31.8.2017, p. 91.

⁶ OJ C 342, 12.10.2017, p. 79.

⁷ Position of the European Parliament of 26 March 2019.

Whereas:

- (1) The electricity sector in the Union is undergoing a profound transformation, characterised by more decentralised markets with more players, ■ a higher proportion of energy from renewable sources ***and better interconnected systems***. In response, Regulation (EU) 2019/... of the European Parliament and of the Council^{8±} and Directive (EU) 2019/...^{9±} of the European Parliament and of the Council aim to upgrade the legal framework governing the Union's internal electricity market, in order to ensure that markets and networks function in an optimal manner, to the benefit of businesses and *Union citizens*. ***This Regulation is intended to contribute to the implementation of the objectives of the Energy Union, of which energy security, solidarity, trust and an ambitious climate policy are an integral part.***

⁸ Regulation (EU) 2019/... of the European Parliament and of the Council of

[±] OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 9/19 (2016/0379(COD)) and insert the number, date, title and OJ reference of that Regulation in the footnote.

⁹ Directive (EU) 2019/... of the European Parliament and of the Council of

[±] OJ: Please insert in the text the number of the Directive contained in document PE-CONS 10/19 (2016/0380(COD)) and insert the number, date, title and OJ reference of that Directive in the footnote.

- (2) Well-functioning markets and systems, *with adequate electricity interconnections*, are the best guarantee of security of electricity supply. However, even where markets and systems function well *and are interconnected*, the risk of an electricity crisis, as a result of *natural disasters, such as* extreme weather conditions, malicious attacks or fuel shortages, can never be excluded. The consequences of *electricity crises* often extend beyond national borders. Even where such crises start locally, their effects can rapidly spread across borders. Some extreme circumstances, such as cold spells, heat waves or cyberattacks, may affect entire regions at the same time.
- (3) In a context of interlinked electricity markets and systems, *electricity* crisis prevention and management cannot be considered to be a purely national *task*. *The potential of more efficient and less costly measures through regional cooperation should be better exploited*. A common framework of rules and *better* coordinated procedures are needed in order to ensure that Member States and other actors are able to cooperate effectively across borders, in a spirit of *increased* transparency, *trust* and solidarity *between Member States*.

- (4) Directive 2005/89/EC of the European Parliament and of the Council¹⁰ *established* the necessary measures that the Member States are to take in order to ensure security of electricity supply in general. The provisions of that Directive have largely been superseded by subsequent legislative acts, in particular as regards how electricity markets are to be organised in order to ensure the availability of sufficient capacity, how transmission system operators are to cooperate to guarantee system stability, and as regards ensuring that appropriate infrastructure is in place. This Regulation addresses the specific issue of *electricity* crisis prevention and management.

¹⁰ Directive 2005/89/EC of the European Parliament and of the Council of 18 January 2006 concerning measures to safeguard security of electricity supply and infrastructure investment (OJ L 33, 4.2.2006, p. 22).

- (5) Commission Regulations (EU) 2017/1485¹¹ and (EU) 2017/2196¹² constitute a detailed rulebook governing how transmission system operators and other relevant *stakeholders* should act and cooperate to ensure system security. Those technical rules should ensure that most electricity incidents are dealt with effectively at operational level. This Regulation focuses on electricity crises that have a larger scale and impact. It sets out what Member States should do to prevent such crises and what measures they can take should system operation rules alone no longer suffice. Even in *electricity* crises system operation rules should continue to be fully respected ***and this Regulation should be consistent with Regulation (EU) 2017/2196.***

¹¹ Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation (OJ L 220, 25.8.2017, p. 1).

¹² Commission Regulation (EU) 2017/2196 of 24 November 2017 establishing a network code on electricity emergency and restoration (OJ L 312, 28.11.2017, p. 54).

- (6) This Regulation sets out a common framework of rules on how to prevent, prepare for and manage electricity crises, bringing more transparency in the preparation phase and during an electricity crisis *and ensuring that measures are taken in a coordinated and effective manner*. It requires Member States to cooperate, *at regional level and, where applicable, bilaterally*, in a spirit of solidarity. It also sets out a framework for the effective monitoring of security of electricity supply in the Union via the Electricity Coordination Group (ECG), which was set up by a Commission Decision of 15 November 2012¹³ as a forum in which to exchange information and foster cooperation among Member States, in particular in the area of security of electricity supply. Member State cooperation and the monitoring framework are intended to achieve better risk-preparedness at a lower cost. *This Regulation* should also strengthen the internal electricity market by enhancing trust and confidence across Member States and ruling out inappropriate state interventions in *electricity* crises, in particular avoiding undue curtailment of cross-border flows *and cross zonal transmission capacities, thus reducing the risk of negative spill-over effects on neighbouring Member States*.

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

- (7) Directive (EU) 2016/1148 of the European Parliament and of the Council¹⁴ lays down general rules on security of network and information systems, while specific rules on cybersecurity will be developed through a network code as laid down in Regulation (EU) 2019/...[±]. This Regulation complements Directive (EU) 2016/1148 by ensuring that cyber-incidents are properly identified as a risk, and that the measures taken to address them are properly reflected in the risk-preparedness plans.
- (8) Council Directive 2008/114/EC¹⁵ lays down a process with a view to enhancing the security of designated European critical infrastructure, including certain electricity infrastructure. Directive 2008/114/EC, together with this Regulation, contributes to creating a comprehensive approach to the energy security of the Union.
- (9) Decision No 1313/2013/EU of the European Parliament and of the Council¹⁶ sets out requirements for Member States to develop risk assessments at national level or at the appropriate sub-national level every three years, and to develop and refine their disaster risk management planning at national level or at the appropriate sub-national level. The specific risk prevention, preparedness and planning actions set out in this Regulation should be consistent with the wider, multi-hazard national risk assessments required under Decision No 1313/2013/EU.

¹⁴ Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. 1).

[±] OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 9/19 (2016/0379(COD)).

¹⁵ Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection (OJ L 345, 23.12.2008, p. 75).

¹⁶ Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism (OJ L 347, 20.12.2013, p. 924).

- (10) *Member States are responsible for ensuring the security of electricity supply within their territories, while security of electricity supply is also a responsibility shared among the Commission and other Union actors, within their respective areas of activity and competence. Security of electricity supply entails effective cooperation among Member States, Union institutions, bodies, offices and agencies, and relevant stakeholders. Distribution system operators and transmission system operators play a key role in ensuring a secure, reliable and efficient electricity system in accordance with Articles 31 and 40 of Directive (EU) 2019/...[±]. The regulatory authorities and other relevant national authorities also play an important role in ensuring and monitoring the security of electricity supply, as part of their tasks attributed by Article 59 of Directive (EU) 2019/...[±]. Member States should designate an existing or new entity as their single competent national governmental or regulatory authority with the aim of ensuring the transparent and inclusive participation of all actors involved, the efficient preparation and proper implementation of the risk-preparedness plans, as well as facilitating the prevention and ex-post evaluation of electricity crises and information exchanges in relation thereto.*

[±] *OJ: Please insert in the text the number of the Directive contained in document PE-CONS 10/19 (2016/0380(COD)).*

(11) *A common approach to electricity crisis prevention and management requires a common understanding among Member States as to what constitutes an electricity crisis. In particular this Regulation should facilitate coordination among Member States for the purpose of identifying a situation in which the potential risk of a significant electricity shortage or an impossibility to supply electricity to customers is present or imminent. The European Network of Transmission System Operators for Electricity (“ENTSO for Electricity”) and the Member States should, respectively, determine concrete regional and national electricity crisis scenarios. That approach should ensure that all relevant electricity crises are covered, taking into account regional and national specificities such as the topology of the grid, the electricity mix, the size of production and consumption, and the degree of population density.*

- (12) A common approach to *electricity* crisis prevention and management also requires that Member States use the same methods and definitions to identify risks relating to the security of electricity supply and are in a position ■ to compare *effectively* how well they and their neighbours perform in that area. *This* Regulation identifies two indicators for monitoring the security of electricity supply in the Union: 'expected energy non-served', expressed in GWh/year, and 'loss of load expectation', expressed in hours per year. Those indicators are part of the European resource adequacy assessment carried out by the ENTSO for Electricity, pursuant to Article 23 of Regulation (EU) 2019/...[±]. The ECG *should* carry out regular monitoring of the security of electricity supply based on the results of those indicators. The Agency for the Cooperation of Energy Regulators (ACER) should also use those indicators when reporting on Member States' performance in the area of security of electricity supply in its annual electricity market monitoring reports, pursuant to Article 15 of Regulation (EU) 2019/...[±].

[±] OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 9/19 (2016/0379(COD)).

[±] OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 83/18 (2016/0378(COD)) and insert the number, date, title and OJ reference of that Regulation in the footnote..

- (13) To ensure the coherence of risk assessments in a manner that builds trust between Member States in an *electricity* crisis, a common approach to identifying risk scenarios is needed. The ENTSO for Electricity should therefore, *after consulting the relevant stakeholders*, develop *and update* a common methodology for risk identification in cooperation with ACER, *and with the ECG in its formation composed only of representatives of the Member States. The ENTSO for Electricity should* propose the methodology and ACER should approve it. *When consulting the ECG, ACER is to take the utmost account of the views expressed by the ECG. The ENTSO for Electricity should update the common methodology for risk identification where significant new information becomes available.*

- (14) On the basis of **the** common methodology for risk identification, the ENTSO for Electricity should regularly draw up and update regional electricity crisis scenarios and identify the most relevant risks for each region such as extreme weather conditions, natural disasters, fuel shortages or malicious attacks. When considering the crisis scenario of a gas fuel shortage, the risk of disruption of the gas supply should be assessed based on the gas supply and infrastructure disruption scenarios developed by the European Network of Transmission System Operators for Gas (**ENTSOG**) pursuant to Article 7 of **Regulation (EU) 2017/1938 of the European Parliament and of the Council**¹⁷. The **ENTSO** for Electricity **should be able to delegate tasks relating to the identification of regional electricity crisis scenarios to regional coordination centres established pursuant to Article 35 of Regulation (EU) 2019/...**⁺. **Those delegated tasks should be performed under the supervision of the ENTSO** for Electricity. Member States should establish and update their national electricity crisis scenarios on **the basis of regional electricity crisis scenarios**, in principle every **four** years. Those scenarios should provide the basis for the risk-preparedness plans. When identifying risks at national level, the Member States should describe any risks that they identify in relation to the ownership of the infrastructure relevant for security of **electricity** supply and any measures taken to address those risks such as general or sector-specific investment screening laws, special rights for certain shareholders, with an indication why they consider such measures **to be necessary and proportionate**.

¹⁷ **Regulation (EU) 2017/1938 of the European Parliament and of the Council of 25 October 2017 concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010 (OJ L 280, 28.10.2017, p. 1).**

⁺ **OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 9/19 (2016/0379(COD)).**

- (15) A regional approach to identifying risk scenarios and to developing preventive, *preparatory* and mitigating measures should bring significant benefits in terms of the effectiveness of those measures and the optimal use of resources. Moreover, in a simultaneous ■ electricity crisis, a coordinated and pre-agreed approach would ensure a consistent response and reduce the risk of negative spill-over effects that purely national measures could have in neighbouring Member States. This Regulation therefore requires Member States to cooperate in a regional context.

- (16) *The regional coordination centres should perform the tasks of regional relevance assigned to them in accordance with the Regulation (EU) 2019/...[±]. To ensure that they can carry out their tasks effectively and act in close cooperation with relevant national authorities with a view to preventing and mitigating larger-scale electricity incidents, the regional cooperation required under this Regulation should build on the regional cooperation structures used at technical level, namely the groups of Member States sharing the same regional coordination centre. The geographical regions of the regional coordination centres are therefore relevant for the identification of the regional electricity crisis scenarios and risk assessments. However, Member States should have the possibility to form subgroups within the regions for the purpose of cooperation with regard to concrete regional measures, or to cooperate in existing regional cooperation forums for that purpose, as the technical ability to provide mutual assistance to each other in an electricity crisis is essential. This is because not all Member States in a larger region will necessarily be able to provide electricity to another Member State in an electricity crisis. Thus, it is not necessary for all Member States in a region to conclude regional agreements on concrete regional measures. Instead, Member States that have the technical ability to provide assistance to each other should conclude such agreements.*

[±] *OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 9/19 (2016/0379(COD)).*

- (17) Regulation (EU) 2019/...[±] provides for the use of a common methodology for the medium to long-term European resource adequacy assessment (from 10-year-ahead to year-ahead), with a view to ensuring that Member States' decisions as to possible investment needs are made on a transparent and commonly agreed basis. ***The European resource adequacy assessment has a different purpose from the short-term adequacy assessments which are used to detect possible adequacy related problems in short time-frames, namely seasonal adequacy assessments (six months ahead) and week-ahead to at least day-ahead adequacy assessments. Regarding short-term assessments, there is a need for a common approach to the way possible adequacy-related problems are detected. The ENTSO for Electricity should carry out winter and summer adequacy assessments to alert Member States and transmission system operators to risks related to the security of electricity supply that might occur in the following six months. To improve those adequacy assessments, the ENTSO for Electricity should develop a common probabilistic methodology for them, after consulting the relevant stakeholders, and in cooperation with ACER, and with the ECG, in its formation composed only of representatives of the Member States. The ENTSO for Electricity should propose that methodology and updates thereto to ACER, and ACER should approve the proposal and the updates. When consulting the ECG, ACER is to take the utmost account of the views expressed by the ECG. The ENTSO for Electricity should update the methodology where significant new information becomes available.*** The ENTSO for Electricity should be able to delegate tasks relating to seasonal adequacy assessments to ***regional coordination centres, while delegated tasks should be performed under the ENTSO for Electricity's supervision.***

[±] OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 9/19 (2016/0379(COD)).

- (18) Transmission system operators ■ should apply the methodology used to prepare seasonal adequacy assessments when carrying out any other type of short-term risk assessment, namely the week-ahead to *at least day-ahead* generation adequacy forecasts provided for in Regulation (EU) 2017/1485.
- (19) To ensure a common approach to electricity crisis prevention and management, the competent authority of each Member State should draw up a risk-preparedness plan *on the basis of the regional and national electricity crisis scenarios. The competent authorities should consult stakeholders or representatives of stakeholder groups, such as representatives of producers or their trade bodies or of distribution system operators, where they are relevant for the prevention and handling of an electricity crisis. To that end, the competent authorities should decide on the appropriate arrangements for carrying out the consultation.* The risk-preparedness plans should describe effective, proportionate and non-discriminatory measures addressing all identified electricity crisis scenarios. *The environmental impact of demand and supply-side measures proposed should be taken into account.* The plans should provide transparency especially as regards the conditions in which non-market-based measures can be taken to mitigate electricity crises. All envisaged non-market-based measures should comply with the rules laid down in this Regulation. *The risk-preparedness plans should be made public, while ensuring confidentiality of sensitive information.*

- (20) The risk-preparedness plans should set out national, regional and, where applicable, bilateral measures. Regional and, where applicable, bilateral measures are necessary, in particular in the event of a simultaneous electricity crisis, when a coordinated and pre-agreed approach *is needed to* ensure a consistent response and reduce the risk of negative spill-over effects. *To that end, before adopting the risk-preparedness plans, competent authorities should consult the competent authorities of the relevant Member States. The relevant Member States are those where there could be negative spill-over effects or other impacts on each other's electricity system, whether those Member States are in the same region or directly connected. The plans should take account of the relevant national circumstances, including the situation of outermost regions within the meaning of Article 349 of the Treaty on the Functioning of the European Union, and of some micro-isolated systems that are not connected to the national transmission systems. In that respect, Member States should draw the appropriate conclusions as regards, inter alia, the provisions of this Regulation on identification of regional electricity crisis scenarios and the regional and bilateral measures set out in risk-preparedness plans as well as provisions on assistance. The plans should* clearly set out the roles and responsibilities of the competent authorities. National measures should take full account of the regional and bilateral measures that have been agreed and should take full advantage of the opportunities provided by regional cooperation. The plans should be technical and operational in nature, their function being to help prevent the occurrence or escalation of an electricity crisis and to mitigate its effects.

- (21) The risk-preparedness plans should be updated regularly. To ensure that the plans are up-to-date and effective, the competent authorities **of the Member States** of each region should organise **biennial** simulations of electricity crises in cooperation with **transmission system operators and other relevant stakeholders in order** to test their suitability.
- (22) **The template provided for in this Regulation is intended to** facilitate the preparation of the plans, **allowing for the inclusion of additional, Member State specific information. The template is also intended to facilitate** consultation of other Member States in the region concerned and the **ECG**. Consultation within the region and within the **ECG** should ensure that measures taken in one Member State or region do not put at risk the security of electricity supply of other Member States or regions.

- (23) It is important to facilitate communication and transparency between Member States, where they have concrete, serious and reliable information that an *electricity crisis* may occur. In such circumstances the Member States *concerned* should inform the Commission, *the neighbouring Member States* and the *ECG* without *undue* delay, providing, in particular, information on the causes of the deterioration of the electricity supply situation, the planned measures to prevent the electricity crisis and the possible need for assistance from other Member States.
- (24) Information exchange in the event of an electricity crisis is essential in order to ensure coordinated action and targeted assistance. Therefore, this Regulation obliges *the competent authority* to inform the Member States in the region, the neighbouring Member States and the Commission without *undue* delay when confronted with an electricity crisis. *The competent authority* should also provide information on the causes of the crisis, the measures planned or taken to mitigate the crisis and the possible need for assistance from other Member States. Where that assistance goes beyond security of electricity supply, the Union Civil Protection Mechanism should remain the applicable legal framework.

- (25) In the event of an electricity crisis Member States should *cooperate* in a spirit of solidarity **■**. *In addition to that general rule, appropriate provision should be made for Member States to offer each other assistance in an electricity crisis. Such assistance should be based on agreed, coordinated measures set out in the risk-preparedness plans. This Regulation gives Member States a wide discretion when agreeing on the content of such coordinated measures and thus on the content of the assistance that they offer. It is for Member States to decide and agree on such coordinated measures, taking into account demand and supply. At the same time, this Regulation ensures that, for the purpose of the agreed assistance, electricity is delivered in a coordinated manner. Member States should agree on the necessary technical, legal and financial arrangements for the implementation of the regional and bilateral measures that have been agreed. Under those technical arrangements the Member States should indicate the maximum quantities of electricity to be delivered, which should be re-assessed on the basis of the technical feasibility of delivering electricity once the assistance is required during an electricity crisis. Subsequently, Member States should take all necessary measures for the implementation of the regional and bilateral measures that have been agreed and technical, legal and financial arrangements.*

- (26) When agreeing on *coordinated measures and technical, legal and financial arrangements and otherwise implementing provisions on assistance*, Member States should take account of social and economic factors, including the security of Union citizens, and proportionality. They are encouraged to exchange best practices and to use the *ECG* as a discussion platform through which to identify the available options for *assistance, in particular concerning coordinated measures and the necessary technical, legal and financial* arrangements, including *fair* compensation **■**. The Commission may facilitate the preparation of the regional and bilateral measures.
- (27) *Assistance between Member States under this Regulation should be subject to fair compensation agreed between the Member States. This Regulation does not harmonise all aspects of such fair compensation between Member States. The Member States should therefore agree on provisions on fair compensation before assistance is provided. The Member State requesting assistance should promptly pay, or ensure the prompt payment of, such compensation to the Member State providing the assistance. The Commission should provide for non-binding guidance on the key elements of fair compensation and other elements of the technical, legal and financial arrangements.*

(28) *In providing assistance under this Regulation, Member States implement Union law and are therefore bound to respect fundamental rights guaranteed by Union law. Such assistance may therefore, depending on the measures agreed between Member States, give rise to an obligation on a Member State to pay compensation to those affected by its measures. Member States should therefore, where necessary, ensure that national compensation rules which comply with Union law, in particular with fundamental rights, are in place. Moreover, the Member State that receives assistance should ultimately bear all the reasonable costs that another Member State incurs as a result of providing assistance pursuant to such national compensation rules.*

- (29) *In the event of an electricity crisis, assistance should be provided even if Member States have not yet agreed on coordinated measures and technical, legal and financial arrangements as required by the provisions of this Regulation on assistance. In order to be able to provide assistance in such a situation in accordance with this Regulation, Member States should agree on ad hoc measures and arrangements in place of the absent coordinated measures and technical, legal and financial arrangements.*
- (30) *This Regulation introduces such an assistance mechanism between Member States as an instrument to prevent or mitigate an electricity crisis within the Union. The Commission should therefore review the assistance mechanism in light of future experience with its functioning, and propose, where appropriate, modifications thereto.*

(31) This Regulation should enable electricity undertakings and customers to rely on the market mechanisms laid down in Regulation (EU) 2019/...[±] and Directive (EU) 2019/...[±] for as long as possible when coping with electricity crises. Rules governing the internal market and system operation rules should be complied with even in electricity crises. ***Such rules include point (i) of Article 22(1) of Regulation (EU) 2017/1485 and Article 35 of Regulation (EU) 2017/2196, which govern transaction curtailment, limitation of provision of cross zonal capacity for capacity allocation or limitation of provision of schedules.*** This means that non-market-based measures, such as forced demand disconnection, or the provision of extra supplies outside normal market functioning ***should*** be taken only as a last resort, when all possibilities ***provided*** by the market have been exhausted. Therefore, forced demand disconnection should be introduced only after all possibilities for voluntary demand disconnection have been exhausted. In addition, any non-market-based measures should be necessary, proportionate, non-discriminatory and temporary.

[±] OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 9/19 (2016/0379(COD)).

[±] OJ: Please insert in the text the number of the Directive contained in document PE-CONS 10/19 (2016/0380(COD)).

- (32) In order to ensure transparency after an electricity crisis, *the competent authority that declared the electricity crisis* should carry out an ex-post evaluation of the crisis and its impact **■**. That evaluation should take into account, inter alia, the effectiveness and proportionality of the measures taken as well as their economic cost. That evaluation should also cover cross-border considerations, such as the impact of the measures on other Member States and the level of the assistance that the Member State that declared the electricity crisis received from them.
- (33) The transparency obligations should ensure that all measures that are taken to prevent or manage electricity crises comply with internal market rules and are in line with the principles of cooperation and solidarity which underpin the Energy Union.

- (34) This Regulation reinforces the role of the *ECCG*. It should carry out specific tasks, in particular in connection with *the development of a methodology for identifying regional electricity crisis scenarios and a methodology for short-term and seasonal adequacy assessments and in connection with* the preparation of the risk-preparedness plans, and *should* have a prominent role in monitoring Member States' performance in the area of the security of electricity supply, and developing best practices on *that* basis.
- (35) It is possible that an electricity crisis extends beyond Union borders to the territory of the Energy Community *Contracting Parties*. *As a party to the Treaty establishing the Energy Community (Energy Community Treaty), the Union should promote amendments to that Treaty with the aim of creating an integrated market and a single regulatory space by providing an appropriate and stable regulatory framework*. In order to ensure efficient crisis management **■**, the Union should closely cooperate with the Energy Community Contracting Parties when preventing, preparing for and managing an electricity crisis.
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- (36) *Where the Commission, ACER, the ECG, the ENTSO for Electricity, Member States and their competent and regulatory authorities, or any other bodies, entities or persons, receive confidential information pursuant to this Regulation, they should ensure the confidentiality of that information. To that end, confidential information should be subject to Union and national rules in place on the handling of confidential information and processes.*
- (37) *Since the objective of this Regulation, namely to ensure the most effective and efficient risk-preparedness within the Union, cannot be sufficiently achieved by Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.*

(38) Cyprus is currently the only Member State which is not directly connected to another Member State. It should be clarified with respect to certain provisions of this Regulation that, for as long as this situation persists, those provisions, namely provisions on the identification of regional electricity crisis scenarios, on including regional and bilateral measures set out in risk-preparedness plans, and on assistance, do not apply with respect to Cyprus. Cyprus and relevant other Member States are encouraged to develop, with the support of the Commission, alternative measures and procedures in the fields covered by those provisions, provided that such alternative measures and procedures do not affect the effective application of this Regulation between the other Member States.

(39) Directive 2005/89/EC should be repealed,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation lays down rules for cooperation between Member States with a view to preventing, preparing for and *managing* electricity crises in a spirit of solidarity and transparency and in full regard for the requirements of a competitive internal market for electricity.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) 'security of electricity supply' means the ability of an electricity system to guarantee *the* supply of electricity to *customers* with a clearly established level of performance, *as determined by the Member States concerned*;
- (2) 'transmission system operator' means transmission system operator as defined in point (35) of Article 2 of Directive (EU) 2019/...⁺;
- (3) 'distribution' means distribution as defined in point (28) of Article 2 of Directive (EU) 2019/...⁺;
- (4) 'cross-border flow' means cross-border flow as defined in point (3) of Article 2 of Regulation (EU) 2019/...⁺⁺;
- (5) 'cross zonal capacity' means the capability of the interconnected system to accommodate energy transfer between bidding zones;
- (6) 'customer' means customer as defined in point (1) of Article 2 of Directive (EU) 2019/...⁺;
- (7) 'distribution system operator' means distribution system operator as defined in point (29) of Article 2 of Directive (EU) 2019/...⁺;
- (8) 'generation' means generation as defined in point (37) of Article 2 of Directive (EU) 2019/...⁺;
- (9) 'electricity crisis' means a present or imminent situation in which there is a significant electricity shortage, as determined by the Member States and described in their risk-preparedness plans, or in which it is impossible to *supply* electricity to *customers*;
- (10) 'simultaneous electricity crisis' means an electricity crisis affecting more than one Member State at the same time;

⁺ OJ: Please insert in the text the number of the Directive contained in document PE-CONS 10/19 (2016/0380(COD)).

⁺⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 9/19 (2016/0379(COD)).

- (11) *'competent authority'* means a national governmental authority or a regulatory authority designated by a Member State in accordance with Article 3;
- (12) 'regulatory authorities' means regulatory authorities referred to in Article 57(1) of Directive (EU) 2019/...⁺;
- (13) 'crisis *coordinator*' means a person, a group of persons, *a team composed of the relevant national electricity crisis managers* or an institution tasked with acting as a contact point and coordinating the information flow during an electricity crisis;

- (14) 'non-market-based measure' means any supply- or demand-side measure that deviates from market rules or commercial agreements, the purpose of which is to mitigate an electricity crisis;
- (15) 'producer' means producer as defined in point (38) of Article 2 of Directive (EU) 2019/...⁺;
- (16) 'region' means a group of Member States *whose transmission system operators share the same regional coordination centre as referred to in Article 36 of Regulation (EU) 2019/...⁺⁺*;
- (17) *'subgroup' means a group of Member States, within a region, which have the technical ability to provide each other assistance in accordance with Article 15;*
- (18) *'early warning' means a provision of concrete, serious, reliable information indicating that an event may occur which is likely to result in a significant deterioration of the electricity supply situation and is likely to lead to electricity crisis;*
- (19) 'transmission' means transmission as defined in point (34) of Article 2 of Directive (EU) 2019/...⁺;
- (20) 'electricity undertaking' means electricity undertaking as defined in point (57) of Article 2 of Directive (EU) 2019/...⁺;
- (21) 'capacity allocation' means the attribution of cross zonal capacity;
- (22) 'energy from renewable sources' means energy from renewable sources or renewable energy as defined in point (31) of Article 2 of Directive (EU) 2019/...⁺.

⁺ OJ: Please insert in the text the number of the Directive contained in document PE-CONS 10/19 (2016/0380(COD)).

⁺⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 9/19 (2016/0379(COD)).

Article 3
Competent authority

1. As soon as possible and in any event by ... [*six months after the date of entry into force of this Regulation*], each Member State shall designate a national governmental or regulatory authority as its competent authority. The competent authorities shall be responsible for, and shall cooperate with each other for the purposes of, carrying out the tasks *provided for* in this Regulation. *Where appropriate, until the competent authority has been designated, the national entities responsible for the security of electricity supply shall carry out the tasks of the competent authority in accordance with this Regulation.*
2. Member States shall, *without delay*, notify the Commission *and the ECG and make public* the name and the contact details of *their* competent authorities designated pursuant to paragraph 1 *and any changes to their name or contact details.*
3. *Member States may allow the competent authority to delegate the operational tasks regarding risk-preparedness planning and risk management set out in this Regulation to other bodies. Delegated tasks shall be performed under the supervision of the competent authority and shall be specified in the risk-preparedness plan in accordance with point (b) of Article 11(1).*

CHAPTER II

RISK ASSESSMENT

Article 4

Assessment of risks to security of electricity supply

Each competent authority shall ensure that all *relevant* risks relating to security of electricity supply are assessed in accordance with the rules laid down in this Regulation and *in Chapter IV* of Regulation (EU) 2019/...[±]. To that end, it shall cooperate with *transmission system operators, distribution system operators, regulatory authorities*, the ENTSO for Electricity, *regional coordination centres and other relevant stakeholders, as required*.

[±] OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 9/19 (2016/0379(COD)).

Article 5

Methodology for identifying regional electricity crisis scenarios

1. By ... [**six months after the date of entry into force of this Regulation**], the ENTSO for Electricity shall submit to ACER a proposal for a methodology for identifying the most relevant regional electricity crisis scenarios.
2. The **proposed methodology shall identify electricity crisis scenarios in relation to system adequacy, system security and fuel security** on the basis of at least the following risks:
 - (a) rare and extreme natural hazards;
 - (b) accidental hazards going beyond the N-1 security criterion **and exceptional contingencies**;
 - (c) consequential hazards including the **consequences of malicious attacks and of fuel shortages**.

3. The proposed methodology shall include at least the following elements:
- (a) a consideration of all relevant national and regional circumstances, ***including any subgroups***;
 - (b) interaction and correlation of risks across borders;
 - (c) simulations of simultaneous electricity crisis scenarios;
 - (d) ranking of risks according to their impact and probability;
 - (e) ***principles on how to handle sensitive information in a manner that ensures transparency towards the public.***
4. When considering the risks of disruption of gas ***supply*** in the context of identifying the risks pursuant ***to point (c)*** of paragraph 2 of this Article, the ENTSO for Electricity shall use the ***natural*** gas supply and infrastructure disruption scenarios developed by ***ENTSOG*** pursuant to ***Article 7 of Regulation (EU) 2017/1938***.

5. Before submitting the proposed methodology to ACER, the ENTSO for Electricity shall conduct a consultation involving at least the ***regional coordination centres***, industry and consumer organisations, ***producers or their trade bodies, transmission system operators and relevant*** distribution system operators, ***competent authorities***, regulatory authorities and other relevant national authorities. The ENTSO for Electricity shall duly take into account the results of the consultation ***and present them, together with the proposed methodology, at a meeting of the ECG.***

6. Within two months of ***receipt of*** the proposed methodology, ACER shall, ***after consulting the ECG, in its formation composed only of representatives of the Member States,*** approve or amend the proposal. ***The ENTSO for Electricity and ACER shall publish the final version of the methodology on their websites.***

7. The ENTSO for Electricity shall update and improve the methodology in accordance with paragraphs 1 to 6 *where significant new information becomes available*. The *ECG in its formation composed only of representatives of the Member States may recommend, and ACER or the Commission* may request, such updates and improvements with due justification. Within six months of receipt of the request, the ENTSO for Electricity shall submit to ACER a draft of the proposed changes. Within █ two months of *receipt of such a* draft, ACER shall, *after consulting the ECG, in its formation composed only of representatives of the Member States*, approve *or amend* the *proposed* changes. *The ENTSO for Electricity and ACER shall publish the final version of the updated methodology on their websites.*

Article 6

Identification of regional electricity crisis scenarios

1. Within *six* months of **the approval of a methodology pursuant to Article 5(6)**, the ENTSO for Electricity shall, **on the basis of that methodology and in close cooperation with the ECG, regional coordination centres, competent authorities and regulatory authorities**, identify the most relevant electricity crisis scenarios for each region. **It may delegate tasks relating to the identification of regional electricity crisis scenarios to the regional coordination centres.**
2. The ENTSO for Electricity shall submit the regional electricity crisis scenarios to the **relevant transmission system operators, regional coordination centres, competent authorities and regulatory authorities as well as to the ECG**. The ECG **may recommend amendments.**
3. The ENTSO for Electricity shall update the **regional electricity crisis** scenarios every **four** years, unless circumstances warrant more frequent updates.

Article 7

Identification of national electricity crisis scenarios

1. Within **four** months of the **identification of the regional electricity crisis scenarios in accordance with Article 6(1), the competent authority** shall identify the most relevant national electricity crisis scenarios.
2. **In identifying the national electricity crisis scenarios, the competent authority shall consult the transmission system operators, the distribution system operators that the competent authority considers to be relevant, the relevant producers or their trade bodies, and the regulatory authority where it is not the competent authority.**
3. The national electricity crisis scenarios shall be identified on the basis of at least the risks referred to in Article 5(2) and shall be consistent with the regional electricity crisis scenarios identified in accordance with Article 6(1). Member States shall update the national electricity crisis scenarios every **four** years, unless circumstances warrant more frequent updates.
4. Within **four months of identification of regional electricity crisis scenarios in accordance with Article 6(1)**, Member States shall inform the **ECG** and the Commission of their assessment of the risks in relation to the ownership of infrastructure relevant for security of electricity supply, and any measures taken to prevent or mitigate such risks, with an indication of why such measures are considered necessary and proportionate.

Article 8

Methodology for short-term *and seasonal* adequacy assessments

1. By ... [*six months after the date of entry into force of this Regulation*], the ENTSO for Electricity shall submit to ACER a proposal for a methodology for assessing *seasonal and* short-term adequacy, namely *monthly*, week-ahead *to at least day-ahead* adequacy, which shall cover at least the following:
 - (a) the uncertainty of inputs such as the probability of a transmission capacity outage, the probability of an unplanned outage of power plants, severe weather conditions, *variable demand, in particular peaks depending on weather conditions*, and variability of **production** of energy from renewable sources;
 - (b) the probability of the occurrence of *an electricity crisis*;
 - (c) the probability of the occurrence of a simultaneous *electricity* crisis.

2. The methodology referred to in paragraph 1 shall provide for a probabilistic approach, ***including multiple scenarios***, and shall take into account the ***national***, regional and Union context, including ***the level of interconnection between Member States and***, to the extent possible, third countries within synchronous areas of the Union. ***The methodology shall take into account the specificities of each Member State's energy sector, including specific weather conditions and external circumstances.***

3. Before submitting the proposed methodology, the ENTSO for Electricity shall conduct a consultation involving at least the ***regional coordination centres***, industry and ***consumer organisations, producers or their trade bodies, transmission system operators, relevant distribution system operators, competent authorities***, regulatory authorities and other ***relevant*** national authorities. The ENTSO for Electricity shall duly take into account the results of the consultation ***and present them, together with the proposed methodology, at a meeting of the ECG.***

4. Within two months of *receipt of* the proposed methodology, ACER shall, *after consulting the ECG in its formation composed only of representatives of the Member States*, approve or amend the proposal. *The ENTSO for Electricity and ACER shall publish the final version of the methodology on their websites.*

5. The ENTSO for Electricity shall update and improve the methodology in accordance with paragraphs 1 to 4 *where significant new information becomes available*. The *ECG in its formation composed only of representatives of the Member States may recommend, and ACER* or the Commission may request, such updates and improvements with due justification. Within six months of *receipt of the* request, the ENTSO for Electricity shall submit to ACER a draft of the proposed changes. Within two months of *receipt of such a* draft, ACER shall, *after consulting the ECG, in its formation composed only of representatives of the Member States*, approve *or amend* the *proposed changes*. The *ENTSO for Electricity and ACER shall publish the final version of the updated methodology on their websites.*

Article 9

Short-term *and seasonal* adequacy assessments

1. All short-term adequacy assessments, *whether carried out at national, regional or Union level*, shall be carried out in *accordance with* the methodology developed pursuant to Article 8.
2. The ENTSO for Electricity shall carry out seasonal adequacy assessments in accordance with the methodology developed pursuant to Article 8. It shall publish the results for the winter adequacy assessment by 1 December each year and for the summer adequacy assessment by 1 June each year. *It may delegate tasks relating to the adequacy assessments to regional coordination centres*. It shall present the adequacy assessment at a meeting of the *ECG*, which may make recommendations where appropriate.
3. The *regional coordination centres* shall carry out week-ahead to *at least day ahead* adequacy assessments *in accordance with Regulation (EU) 2017/1485* on the basis of the methodology adopted pursuant to Article 8 of this Regulation.

CHAPTER III

RISK-PREPAREDNESS PLANS

Article 10

Establishment of risk-preparedness plans

1. On the basis of the regional and national electricity crisis scenarios identified pursuant to Articles 6 and 7, the competent authority of each Member State shall establish a risk-preparedness plan, after consulting *distribution system operators considered relevant by the competent authority, the transmission system operators, the relevant producers or their trade bodies*, the electricity and *natural* gas undertakings, the relevant organisations that represent the interests of industrial *and non-industrial* electricity customers, and the regulatory authority where it is not the competent authority.

2. The risk-preparedness plan shall consist of national measures, regional and, where applicable, bilateral measures as provided for in Articles 11 and 12. In accordance with Article 16, all measures that are planned or taken to prevent, prepare for and mitigate electricity crises shall fully comply with the rules governing the internal electricity market and system operation. Those measures shall be clearly defined, transparent, proportionate and non-discriminatory.
3. The risk-preparedness plan shall be developed in accordance with *Articles 11 and 12 and with the template set out in the Annex. If necessary, Member States may include additional information in the risk-preparedness plan.*
4. *In order to ensure consistency of risk-preparedness plans*, competent authorities shall, *before* adopting their risk-preparedness plans, submit the draft plans, for consultation, to the competent authorities of the *relevant* Member States in the region **■** *and, where they are not in the same region, to the competent authorities of directly connected Member States, as well as to the ECG.*
5. Within *six* months of *receipt of* the draft risk-preparedness plans, the competent authorities referred to in paragraph 4 and the *ECG* **■** may issue recommendations relating to the draft plans submitted pursuant to paragraph 4.

6. Within **nine** months of submitting their draft plans, the **competent authorities concerned** shall adopt their risk-preparedness plans, taking into account the results of the consultation pursuant to paragraph 4 and any recommendations issued pursuant to paragraph 5. They shall **notify** their risk-preparedness plans to the **Commission** without delay.
7. The **competent authorities and the Commission** shall **publish** the risk-preparedness plans **on their websites**, while ensuring confidentiality of sensitive information, in particular information on measures relating to the prevention or mitigation **of consequences of** malicious attacks. **The protection of the confidentiality of sensitive information shall be based on the principles determined pursuant to Article 19.**
8. **The competent authorities** shall adopt and publish their first risk-preparedness plans by ... [30 months after the date of entry into force of this Regulation]. They shall update them every **four** years thereafter, unless circumstances warrant more frequent updates.

Article 11

Content of risk-preparedness plans as regards national measures

1. The risk-preparedness plan of each Member State shall set out all national measures that are planned or taken to prevent, prepare for and mitigate electricity crises as identified pursuant to Articles 6 and 7. It shall at least:
 - (a) contain a summary of the electricity crisis scenarios defined for the relevant Member State and region, in accordance with the procedures *laid down* in Articles 6 and 7;
 - (b) establish the role and responsibilities of the competent authority *and describe which tasks, if any, have been delegated to other bodies*;
 - (c) describe the national measures designed to prevent or prepare for the risks identified pursuant to Articles 6 and 7;
 - (d) designate a national crisis *coordinator* and establish its tasks;
 - (e) establish detailed procedures to be followed in electricity crises, including the corresponding schemes on information flows;

- (f) identify the contribution of market-based measures in coping with electricity crises, *in particular demand-side and supply-side measures*;
- (g) identify possible non-market-based measures to be implemented in electricity crises, specifying the *triggers*, conditions and procedures for their implementation, and indicating how they comply with the requirements laid down in Article 16 and *with regional and bilateral measures*;
- (h) provide a *framework for manual* load shedding, stipulating the circumstances *in which* loads are to be shed and, *with regard to public safety and personal security*, specifying which categories of electricity users are, *in accordance with national law, entitled* to receive special protection against disconnection, justifying the need for such protection, *and specifying how the transmission system operators and distribution system operators of the Member States concerned are to decrease consumption*;
- (i) describe the mechanisms used to inform the public about electricity crises;

- (j) *describe the national measures necessary to implement and enforce the regional and, where applicable, bilateral measures agreed pursuant to Article 12;*
- (k) *include information on related and necessary plans for developing the future grid that will help to cope with the consequences of identified electricity crisis scenarios.*

2. National measures shall take full account of the regional and, where applicable, bilateral measures agreed *pursuant to* Article 12 and ***shall endanger neither the operational security or safety of the transmission system, nor*** the security of electricity supply of other Member States **█** .

Article 12

Content of risk-preparedness plans as regards regional and bilateral measures

1. In addition to the national measures referred to in Article 11, the risk-preparedness plan of each Member State shall include regional *and, where applicable, bilateral* measures to ensure that electricity crises with a cross-border impact are properly prevented or managed. *Regional measures shall be agreed within the region concerned between Member States that have the technical ability to provide each other assistance in accordance with Article 15. For that purpose, Member States may also form subgroups within a region. Bilateral measures shall be agreed between Member States which are directly connected but are not within the same region. Member States shall ensure consistency between regional and bilateral measures. Regional and bilateral measures shall include at least:*
 - (a) the designation of a **crisis coordinator** ;
 - (b) mechanisms to share information and cooperate **■** ;
 - (c) *coordinated* measures to mitigate the impact of *an electricity* crisis, including a simultaneous electricity crisis, *for the purpose of assistance in accordance with Article 15;*
 - (d) procedures for carrying out annual *or biennial* tests of the risk-preparedness plans;
 - (e) *the trigger mechanisms of non-market-based measures that are to be activated in accordance with Article 16(2).*

2. The Member States concerned shall agree the regional *and bilateral* measures to be included in the risk-preparedness plan *after consulting the relevant regional coordination centres. The Commission may have a facilitating role in the preparation of the agreement on regional and bilateral measures. The Commission may request ACER and the ENTSO for Electricity to provide technical assistance to Member States with a view to facilitating such an agreement.* At least eight months before the deadline for the adoption or the updating of the risk-preparedness plan, the competent authorities shall report on the agreements reached to the *ECG*. If *the Member States are* not able to reach an agreement, the *competent authorities concerned* shall inform the Commission of the reasons for such disagreement. In such *a* case the Commission *shall propose measures including a cooperation mechanism for* the conclusion of an agreement *on regional and bilateral measures*.

3. *With* the involvement of relevant stakeholders, the competent authorities of the Member States of each region shall *periodically test the effectiveness of the procedures developed in risk-preparedness plans for preventing electricity crises, including the mechanisms referred to in point (b) of paragraph 1, and* carry out *biennial* simulations of electricity crises, in particular testing those mechanisms.

Article 13

Commission assessment of the risk-preparedness plans

- 1. Within four months of the notification of the adopted risk-preparedness plan by the competent authority, the Commission shall assess the plan taking duly into account the views expressed by the ECG.*
- 2. The Commission shall, after consulting the ECG, issue a non-binding opinion, setting out detailed reasons, and submit it to the competent authority, with a recommendation to review its risk-preparedness plan where that plan:*
 - (a) is not effective to mitigate the risks identified in the electricity crisis scenarios;*
 - (b) is inconsistent with the electricity crisis scenarios identified or with the risk-preparedness plan of another Member State;*
 - (c) does not comply with the requirements laid down in Article 10(2);*
 - (d) sets out measures that are likely to jeopardise the security of electricity supply of other Member States;*
 - (e) unduly distorts competition or the effective functioning of the internal market; or*
 - (f) does not comply with the provisions of this Regulation or other provisions of Union law.*

3. *Within three months of receipt of the Commission's opinion referred to in paragraph 2, the competent authority concerned shall take full account of the Commission's recommendation and shall either notify the amended risk-preparedness plan to the Commission or notify the Commission of the reasons why it objects to the recommendation.*

4. *In the event that the competent authority objects to the Commission's recommendation, the Commission may, within four months of receipt of the notification of the competent authority's reasons for objection, withdraw its recommendation or convene a meeting with the competent authority and, where the Commission considers it to be necessary, the ECG, in order to assess the issue. The Commission shall set out detailed reasons for requesting any modifications to the risk-preparedness plan. Where the final position of the competent authority concerned diverges from the Commission's detailed reasons, that competent authority shall provide the Commission with the reasons for its position within two months of receipt of the Commission's detailed reasons.*

CHAPTER IV

MANAGING ELECTRICITY CRISES

Article 14

Early warning and declaration of an electricity crisis

1. Where a seasonal adequacy assessment or other *qualified* source provides concrete, serious and reliable information that an *electricity crisis may occur* in a Member State, the competent authority of that Member State shall, without undue delay, issue an early warning to the Commission, *the competent authorities of the Member States within the same region and, where they are not in the same region, the competent authorities of the directly connected Member States*. The competent authority concerned shall also provide information on the causes *of the possible electricity crisis*, on measures planned or taken to prevent an electricity crisis and on the possible need for assistance from other Member States. The information shall include the possible impacts of the measures on the internal electricity market . *The Commission shall provide that information to the ECG.*

2. When confronted with an electricity crisis, the competent authority shall, after consulting *the transmission system operator concerned*, declare an electricity crisis and inform the competent authorities of the Member States *within the same region and, where they are not in the same region, the competent authorities of directly connected Member States*, as well as the Commission, without undue delay. *That information shall include the causes of the deterioration of the electricity supply situation, the reasons for declaring an electricity crisis, the measures planned or taken to mitigate it and the need for any assistance from other Member States.*
3. Where they consider the information provided pursuant to paragraph 1 or 2 to be insufficient, the Commission, *the ECG or the competent authorities* of the Member States within the same region and, where they are not in the same region, the competent authorities of directly connected Member States may request the Member State concerned to provide additional information.
4. Where a competent authority issues an early warning or declares an electricity crisis, the measures set out in the risk-preparedness plan shall be followed to the fullest extent possible.

Article 15

Cooperation and assistance

1. Member States shall act and cooperate in a spirit of solidarity in order to prevent or manage electricity crises **■** .
2. *Where they have the necessary **technical ability**, Member States shall offer each other assistance **by means of regional or bilateral measures that have been agreed pursuant to this Article and to Article 12 before that assistance is provided. To that end, and with the purpose of protecting public safety and personal security, Member States shall agree on regional or bilateral measures of their choice in order to deliver electricity in a coordinated manner.***
3. *Member States shall agree on the necessary technical, legal and financial arrangements for the implementation of the regional or bilateral measures before assistance is offered. Such arrangements shall specify, inter alia, the maximum quantity of electricity to be delivered at regional or bilateral level, the trigger for any assistance and for suspension of assistance, how the electricity will be delivered, and provisions on fair compensation between Member States in accordance with paragraphs 4, 5 and 6.*

4. *Assistance shall be subject to a prior agreement between the Member States concerned with regard to fair compensation, which shall cover at least:*
- (a) *the cost of the electricity delivered into the territory of the Member State requesting assistance as well as the associated transmission costs; and*
 - (b) *any other reasonable costs incurred by the Member State providing assistance, including as regards reimbursement for assistance prepared without effective activation, as well as any costs resulting from judicial proceedings, arbitration proceedings or similar proceedings and settlements.*
5. *Fair compensation pursuant to paragraph 4 shall include, inter alia, all reasonable costs that the Member State providing assistance incurs from an obligation to pay compensation by virtue of fundamental rights guaranteed by Union law and by virtue of the applicable international obligations when implementing the provisions of this Regulation on assistance and further reasonable costs incurred from the payment of compensation pursuant to national compensation rules.*

6. *The Member State requesting assistance shall promptly pay, or ensure the prompt payment of fair compensation to the Member State providing assistance.*
7. *The Commission shall, by ... [six months after the date of entry into force of this Regulation], after consulting the ECG and ACER, provide for non-binding guidance on the key elements of the fair compensation referred to in paragraphs 3 to 6 and other key elements of the technical, legal and financial arrangements referred to in paragraph 3 as well as on general principles of mutual assistance referred to in paragraph 2.*
8. *In the event of an electricity crisis in which Member States have not yet agreed on regional or bilateral measures and technical, legal and financial arrangements pursuant to this Article, Member States shall agree on ad hoc measures and arrangements in order to apply this Article, including as regards fair compensation pursuant to paragraphs 4, 5 and 6. Where a Member State requests assistance before such ad hoc measures and arrangements have been agreed, it shall undertake, prior to receiving assistance, to pay fair compensation in accordance with paragraphs 4, 5 and 6.*
9. *Member States shall ensure that the provisions of this Regulation on assistance are implemented in accordance with the Treaties, the Charter of Fundamental Rights of the European Union and other applicable international obligations. They shall take the necessary measures to that end.*

Article 16

Compliance with market rules

1. Measures taken to prevent or mitigate electricity crises shall comply with the rules governing the internal electricity market and system operation.
2. Non-market-based measures **shall** be activated in an electricity crisis **only as a last resort** if all options provided by the market have been exhausted **or where it is evident that market-based measures alone are not sufficient to prevent a further deterioration of the electricity supply situation**. Non-market-based measures shall not unduly distort competition and the effective functioning of the internal electricity market. They shall be necessary, proportionate, non-discriminatory and temporary. The competent authority shall inform **relevant stakeholders in its Member State of the application of any non-market-based measures**.
3. Transaction curtailment including curtailment of already allocated cross zonal capacity, limitation of provision of cross zonal capacity for capacity allocation or limitation of provision of schedules shall be initiated only in accordance with Article 16(2) of Regulation (EU) 2019/...[±], and the rules adopted to implement that provision.

[±] OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 9/19 (2016/0379(COD)).

CHAPTER V
EVALUATION AND MONITORING

Article 17
Ex-post evaluation

1. As soon as possible and in any event *three months* after the end of an electricity crisis, the competent *authority of the Member State that declared the electricity crisis* shall provide the *ECG* and the Commission with an *ex-post* evaluation report, *after* having consulted the regulatory authority, where the regulatory authority is not the competent authority.

2. The ex-post evaluation report shall include at least:
- (a) a description of the event that triggered the electricity crisis;
 - (b) a description of any preventive, preparatory and mitigating measures taken and an assessment of their proportionality and effectiveness;
 - (c) an assessment of the cross-border impact of the measures taken;
 - (d) an account of the assistance *prepared, with or without effective activation*, provided to or received from neighbouring Member States and third countries;
 - (e) the economic impact of the electricity crisis and the impact of the measures taken on the electricity sector *to an extent allowed by data available at the time of the assessment*, in particular the volumes of energy non-served and the level of manual demand disconnection (including a comparison between the level of voluntary and forced demand disconnection);
 - (f) *reasons justifying the application of any non-market-based measures*;
 - (g) any possible improvements or proposed improvements to the risk-preparedness plan;
 - (h) *an overview of possible improvements to grid development in cases where insufficient network development caused or contributed to the electricity crisis.*

3. Where they consider the information provided in the ex-post evaluation report to be insufficient, the *ECG* and the Commission may request the *competent authority* concerned to provide additional information.
4. The competent authority concerned shall present the results of the ex-post evaluation at a meeting of the *ECG*. *Those results shall be reflected in the updated risk-preparedness plan.*

Article 18
Monitoring

1. In addition to carrying out other tasks set out in this Regulation, the *ECG* shall discuss :
- (a) the results of the 10-year network development plan in electricity prepared by the ENTSO for Electricity;
 - (b) the coherence of the risk-preparedness plans, adopted by the competent authorities following the procedure referred to in Article 10;
 - (c) the results of the European resource adequacy assessments carried out by the ENTSO for Electricity as referred to in Article 23(4) of Regulation (EU) 2019/...[±];
 - (d) the performance of Member States in the area of security of electricity supply taking into account at least the indicators calculated in the European resource adequacy assessment, namely the expected energy non-served and loss of load expectation;
 - (e) the results of the seasonal adequacy assessments referred to in Article 9(2);
 - (f) the information received from the Member States *pursuant to* Article 7(4);
 - (g) the results of the ex-post evaluation referred to in Article 17(4);
 - (h) *the methodology for short-term adequacy assessment referred to in Article 8;***
 - (i) *the methodology for identifying regional electricity crisis scenarios referred to in Article 5.***

[±] OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 9/19 (2016/0379(COD)).

2. The *ECG* may issue recommendations to the Member States *as well as to* the *ENTSO* for Electricity related to the matters referred to in paragraph 1.
3. *ACER shall, on an ongoing basis, monitor the security of electricity supply measures and shall report regularly to the ECG.*
4. *By 1 September 2025, the Commission shall, on the basis of the experience gained in the application of this Regulation, evaluate the possible means by which to enhance security of electricity supply at Union level and submit a report to the European Parliament and to the Council on the application of this Regulation, including, where necessary, legislative proposals to amend this Regulation.*

Article 19

Treatment of confidential information

- 1. Member States and competent authorities shall implement the procedures referred to in this Regulation in accordance with the applicable rules, including national rules relating to the handling of confidential information and processes. If the implementation of those rules results in information not being disclosed, inter alia as part of risk-preparedness plans, the Member State or authority may provide a non-confidential summary thereof, and shall do so upon request.*
- 2. The Commission, ACER, the ECG, the ENTSO for Electricity, Member States, competent authorities, regulatory authorities and other relevant bodies, entities or persons, which receive confidential information pursuant to this Regulation, shall ensure the confidentiality of sensitive information.*

CHAPTER VI

FINAL PROVISIONS

Article 20

Cooperation with the Energy Community Contracting Parties

Where the Member States and the Energy Community Contracting Parties **█** cooperate in *the area of security of electricity supply, such cooperation may include defining an electricity crisis*, the process of the identification of electricity crisis scenarios and the establishment of risk-preparedness plans so that no measures are taken that endanger the security of electricity supply of the Member States, Energy Community Contracting Parties or the Union. In that respect, the Energy Community Contracting Parties may, at the invitation of the Commission, participate in the *ECG* with regard to all matters with which they are concerned.

Article 21

Derogation

Until Cyprus is directly connected with another Member State, Articles 6 and 12 and Article 15(2) to (9) shall not apply either between Cyprus and other Member States, or to the ENTSO for Electricity as regards Cyprus. Cyprus and relevant other Member States may develop, with the support of the Commission, measures and procedures alternative to those provided for in Articles 6 and 12 and Article 15(2) to (9), provided that such alternative measures and procedures do not affect the effective application of this Regulation between the other Member States.

Article 22

Transitional provision pending the establishment of regional coordination centres

Until the date on which regional coordination centres are established pursuant to Article 35 of Regulation (EU) 2019/...[±], regions shall refer either to a Member State or to a group of Member States located in the same synchronous area.

[±] *OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 9/19 (2016/0379(COD)).*

Article 23

Repeal

Directive 2005/89/EC is repealed.

Article 24

Entry into force

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

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

Done at ...,

For the European Parliament

For the Council

The President

The President

ANNEX

Template for risk-preparedness plan

The following template shall be completed in English.

GENERAL INFORMATION

- Name of the competent authority responsible for the preparation of this plan
- Member States in the region

1. SUMMARY OF THE ELECTRICITY CRISIS SCENARIOS

Describe briefly the electricity crisis scenarios identified at regional and national level in accordance with *the procedure laid down in* Articles 6 and 7, including the description of the assumptions applied.

2. ROLES AND RESPONSIBILITIES OF THE COMPETENT AUTHORITY

Define the role and responsibilities of the competent authority and the bodies to which tasks have been delegated.

Describe which tasks, if any, have been delegated to other bodies.

3. PROCEDURES AND MEASURES IN THE ELECTRICITY CRISIS

3.1. National procedures and measures

- (a) Describe procedures to be followed in the cases of an electricity crisis, including the corresponding schemes on information flows;
- (b) Describe preventive and preparatory measures;
- (c) Describe measures to mitigate electricity crises, in particular demand-side and supply-side measures, whilst indicating in which circumstances such measures can be used especially the trigger of each measure. Where non-market-based measures are considered, they must be duly justified in light of the requirements laid down in Article 16 *and must comply with regional and, where applicable, bilateral measures*;

- (d) Provide a *framework for manual load shedding, stipulating under which circumstances loads are to be shed* ■ . Specify *with regard to public safety and personal security* which categories of electricity users *are entitled to* receive special protection against disconnection, and *justify the need for such protection. Specify how the transmission system operators and the distribution system operators should act in order to decrease the consumption;*
- (e) Describe the mechanisms used to inform the public about the electricity crisis.

3.2. *Regional and bilateral* procedures and measures

- (a) Describe the agreed mechanisms for cooperation within the region and for ensuring appropriate coordination before and during the electricity crisis, including the decision-making procedures for appropriate reaction at regional level;

- (b) Describe any regional and bilateral measures that have been agreed, including any *necessary technical, legal and* financial arrangements for the implementation *of those measures*. When describing such arrangements, *provide information on, inter alia, the maximum quantities of electricity to be delivered at regional or bilateral level, the trigger for the assistance and possibility to request its suspension, how the electricity will be delivered, and the provisions on fair compensation between Member States. Describe the national measures necessary to implement and enforce the regional and bilateral measures agreed;*
- (c) Describe the mechanisms in place for cooperation and for coordinating actions, before and during the electricity crisis, with other Member States outside of the region as well as with third countries within the relevant synchronous area.

4. **CRISIS *COORDINATOR***

Indicate and define the role of the crisis *coordinator*. Specify the contact details.

5. **STAKEHOLDER CONSULTATIONS**

In accordance with Article 10(1), describe the mechanism used for and the results of the consultations carried out, for the development of this plan, with:

- (a) *relevant* electricity and *natural* gas undertakings, *including relevant producers or their trade bodies*;
- (b) relevant organisations representing the interests of *non-industrial electricity customers*;
- (c) relevant organisations representing the interests of industrial electricity customers ■ ;
- (d) regulatory authorities;

(e) *the transmission system operators;*

(f) *relevant distribution system operators.*

6. EMERGENCY TESTS

- (a) Indicate the calendar for the *biennial* regional (and, if applicable also national) real time response simulations of electricity crises;
- (b) In accordance with point (d) of Article 12(1), indicate procedures agreed and the actors involved.

For the updates of the plan: briefly describe the tests carried out since the last plan was adopted and the main results. Indicate which measures have been adopted as a result of those tests.
