

MEMORANDUM OF UNDERSTANDING ON RISK PREPAREDNESS IN THE ELECTRICITY SECTOR

The Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology of the Republic of Austria; the Ministry of Industry and Trade of the Czech Republic; Department of Electricity the Federal Ministry for Economic Affairs and Climate Action of the Federal Republic of Germany; the Ministry of Innovation and Technology of Hungary; the Ministry of Climate and Environment of the Republic of Poland; and the Ministry of Economy of the Slovak Republic, hereinafter referred to as the “Signatories”, wish to confirm their intention to maintain and strengthen their cooperation on risk preparedness in the electricity sector;

Having regard to Article 15 of Regulation (EU) 2019/941 of the European Parliament and of the Council on risk preparedness in the electricity sector and repealing Directive 2005/89/EC of the European Parliament and of the Council (‘Risk Preparedness Regulation’);

Taking note of the legally non-binding Commission Recommendation (EU) 2020/775 of 5 June 2020 on the key elements of the fair compensation and other key elements to be included in the technical, legal and financial arrangements between EU Member States for the application of the assistance mechanism under Article 15 of the Risk Preparedness Regulation.

Considering:

- existing legal provisions from the Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation, the Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing, the Commission Regulation (EU) 2017/2196 of 24 November 2017 establishing a network code on electricity emergency and restoration, Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity and Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU;
- that under the Risk Preparedness Regulation, the measures based on the “market-first” principle are a primary source of solution in managing electricity crisis situations and that all market-based measures shall be given priority to mitigate the effects of a potential supply disruption resulting from an electricity crisis. Non-market-based measures should 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;
- that under the Risk Preparedness Regulation, EU Member States should act and cooperate in a spirit of solidarity in order to prevent or manage electricity crises;
- that under the framework of this Memorandum of Understanding, the Signatories should only request assistance to prevent or manage electricity crises if all national market-based and non-market-based measures other than forced demand disconnection in the requesting Signatory Country’s risk preparedness plan and inter-TSO (Transmission System Operator) support measures have been exhausted or where it is evident that these measures are insufficient or inadequate to prevent a further deterioration of the electricity supply situation;
- that security of supply is a national responsibility, but national decisions can impact the EU internal electricity market and neighbouring countries and specific measures of electricity crisis prevention and management might be required;

- that cross-border and national grid infrastructure is essential for the security of supply;
- that a better mutual understanding of national concerns (energy mix, resource adequacy, flexibility needs, peak capacity, emergency plans, risk management plans) and common measures are necessary for efficient crisis mitigation;
- that common measures are helpful to ensure risk preparedness on a national and regional level in an effective and efficient manner.

With the intention to:

- cooperate in the field of electricity with a view to preventing, preparing for and managing electricity crises in a spirit of solidarity and transparency and fully respecting the requirements of a competitive internal market for electricity and the operational security procedures of the Transmission System Operators (TSOs), in order to address crisis situations affecting one or more countries of the Signatories;
- bring together the relevant representatives from Ministries and experts in the field of electricity with a focus on risk preparedness and crisis management;
- strive for a joint coordination of regional measures to be implemented in case of a crisis situation;
- prepare for the occurrence of a situation which may not be solved with market-based measures or existing operational procedures of the Transmission System Operators alone and which may require competent authorities to take non-market-based measures;
- refer to the Memorandum of Understanding as relevant in accordance with Article 10 of the Risk Preparedness Regulation.

Have reached the following understanding:

Electricity crisis

- All Signatories share a common understanding that an electricity crisis is 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 in at least one Signatory country.
- All Signatories share a common understanding that a regional electricity crisis is an electricity crisis simultaneously affecting more than one country of the Signatories at the same time.

Confidential common contact list

- All Signatories intend to share a confidential common contact list, with names and contact details of all parties involved in crisis prevention and management containing at least the competent authority, the crisis coordinator, as well as the National Regulatory Authority (NRA) (if involved in crisis situations) and the Transmission System Operators (TSOs) of each country, and which the Signatories wish to update annually, unless circumstances warrant more frequent updates. All Signatories are willing to issue early warnings to all contacts of the confidential common contact list.
- All Signatories share the intention to keep the others informed of their organisation and the evolution of their organisation.
- With regard to cross border communication between Signatory countries in connection to activities under this Memorandum of Understanding, the Signatories intend to communicate only with each other, unless agreed otherwise between the respective Signatories.

Exchange on security of supply situation and the functioning of crisis management policies

- The Signatories intend to regularly send their experts to (on- or offline) working level meetings to discuss the security of supply situation on a national and regional level as well as the functioning of national and regional electricity crisis management policies.
- The Signatories share the understanding that details on cooperation and definition will be specified by experts no later than in the next regular update of the national Risk Preparedness Plan.

Information on an electricity crisis

- In case of an imminent crisis, or when confronted with a crisis, the Signatories of the affected country intend to inform each other of the situation, the measures taken and planned at national level and the possible regional measures identified.
- All Signatories, as the competent authorities of their countries, having faced a crisis, are willing to provide an ex-post evaluation report during a dedicated meeting with experts of other Signatories. The meeting may result in a list of lessons learnt and in an adaptation of the risk preparedness plans.

Cooperation in case of an electricity crisis

- The Signatories are willing to, where they have the necessary technical ability, offer each other assistance by means of regional measures. To that end, and with the purpose of protecting public safety and personal security, the Signatories are willing to decide as quickly as possible on bilateral or regional measures of their choice in order to deliver electricity in a coordinated manner.
- Therefore, the Signatories wish to explore possible measures to facilitate mutual assistance, such as cross-border usage of reserve capacities and flexible loads; surveillance of the short-term security of electricity supply; exchange of information regarding saving appeals to the public; support with electric equipment, knowledge and expertise; usage of mobile generators; exchange of information about demand disconnection plans.
- The Signatories share the understanding that conditions under which support can be requested and provided should be clear, objective and harmonised. They should build upon and go beyond existing rules and measures for inter-TSO assistance.
- The Signatories are open to discussion about the necessary technical, legal and financial arrangements for the implementation of the bilateral or regional measures.
- The Signatories are willing to cooperate on reaching a financial arrangement for rules for fair and adequate compensation between countries, based on the framework provided for in Article 15 para 4, 5 and 6 of the Risk Preparedness Regulation, which covers at least:
 - (a) the cost of the support provided, and electricity delivered into the territory of the affected country requesting assistance as well as the associated transmission costs; and
 - (b) any other reasonable costs incurred by the country providing assistance, including reimbursement for assistance prepared without effective activation, as well as any costs resulting from judicial proceedings, arbitration proceedings or similar proceedings and settlements.
- The Signatories share the understanding that in the event of an electricity crisis in which the countries of the Signatories have not yet decided on bilateral or regional measures including technical, legal and financial arrangements, they may apply existing measures of cooperation, or decide on new ones that are most suitable to address the crisis.
- The Signatories share the understanding that the assistance provided under technical, legal and financial arrangements should respect the operational security procedures of the transmission network operators and be coordinated with the concerned national TSOs before such assistance is offered.

Crisis exercises

- The Signatories share the understanding that regional crisis exercises will be prepared and executed in order to test, evaluate and improve the effectiveness of procedures described above.

This Memorandum of Understanding does not create any rights or obligations under international law and does not intend to replace or modify any existing legal obligations between the Signatories.

Signed at on the

For the Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology of the Republic of Austria

For the Ministry of Industry and Trade of the Czech Republic

For the Federal Ministry for Economic Affairs and Climate Action of the Federal Republic of Germany

For the Federal Ministry of Innovation and Technology Department of Electricity of Hungary

For the Ministry of Climate and Environment of the Republic of Poland

For the Ministry of Economy of the Slovak Republic