

**POSITION PAPER OF THE BALTIC NATIONAL
REGULATORY AUTHORITIES
ON
BALTIC TRANSMISSION SYSTEM OPERATORS
REQUEST FOR DEROGATION FROM ARTICLE 20(6)
OF COMMISSION REGULATION (EU) 2017/2195 OF
23 NOVEMBER 2017 ESTABLISHING A GUIDELINE
ON ELECTRICITY BALANCING WHICH
DETERMINES IMPLEMENTATION AND JOINING
MARI PLATFORM**

18 August 2021

1. INTRODUCTION

This document elaborates an agreement between Baltic National Regulatory Authorities¹ (NRAs) of 18 August 2021 on the Baltic Transmission System Operators' (TSOs) request for derogation from Article 20(6) of the Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing (EB GL) (Derogation request).

Given that according to Article 5(4) (h) of the EB GL the Derogation request should be approvable by each NRA, this agreement is intended to constitute the basis on which NRAs will subsequently issue a reasoned decision concerning the Derogation request.

2. LEGAL CONTEXT

The legal provisions relevant to the submission of the Derogation requests and granting the derogation from Article 20(6) of EB GL, and NRAs agreement can be found in Articles 3, 5(2) (a), 5(4) (h), 6(1), Article 20(4)-(6) and 62 of the EB GL.

Article 3

1. This Regulation aims at:

- (a) fostering effective competition, non-discrimination and transparency in balancing markets;
- (b) enhancing efficiency of balancing as well as efficiency of European and national balancing markets;
- (c) integrating balancing markets and promoting the possibilities for exchanges of balancing services while contributing to operational security;
- (d) contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector in the Union while facilitating the efficient and consistent functioning of day-ahead, intraday and balancing markets;
- (e) ensuring that the procurement of balancing services is fair, objective, transparent and market-based, avoids undue barriers to entry for new entrants, fosters the liquidity of balancing markets while preventing undue distortions within the internal market in electricity;
- (f) facilitating the participation of demand response including aggregation facilities and energy storage while ensuring they compete with other balancing services at a level playing field and, where necessary, act independently when serving a single demand facility;
- (g) facilitating the participation of renewable energy sources and support the achievement of the European Union target for the penetration of renewable generation.

2. When applying this Regulation, Member States, relevant regulatory authorities, and system operators shall:

- (a) apply the principles of proportionality and non-discrimination;
- (b) ensure transparency;
- (c) apply the principle of optimisation between the highest overall efficiency and lowest total costs for all parties involved;
- (d) ensure that TSOs make use of market-based mechanisms, as far as possible, in order to ensure network security and stability;
- (e) ensure that the development of the forward, day-ahead and intraday markets is not compromised;

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- (f) respect the responsibility assigned to the relevant TSO in order to ensure system security, including as required by national legislation;
- (g) consult with relevant DSOs and take account of potential impacts on their system; (h) take into consideration agreed European standards and technical specifications.

Article 5(2) (a)

2. The proposals for the following terms and conditions or methodologies shall be subject to approval by all regulatory authorities:

- (a) the frameworks for the establishment of the European platforms pursuant to Articles 20(1), 21(1) and 22(1);

Article 5(4) h)

3. The proposals for the following terms and conditions or methodologies shall be subject to approval by each regulatory authority of each concerned Member State on a case-by-case basis:

[..]

- (h) the derogations to one or more provisions of this Regulation pursuant to Article 62(2).

Article 6(1)

1. Where one or several regulatory authorities in accordance with Article 37 of Directive 2009/72/EC require an amendment in order to approve the terms and conditions or methodologies submitted in accordance with paragraphs 2, 3 and 4 of Article 5, the relevant TSOs shall submit a proposal for amended terms and conditions or methodologies for approval within two months following the requirement from the relevant regulatory authorities. The relevant regulatory authorities shall decide on the amended terms and conditions or methodologies within two months following their submission.

Article 20(4)-(6)

1. By one year after entry into force of this Regulation, all TSOs shall develop a proposal for the implementation framework for a European platform for the exchange of balancing energy from frequency restoration reserves with manual activation.

4. By six months after the approval of the proposal for the implementation framework for a European platform for the exchange of balancing energy from frequency restoration reserves with manual activation, all TSOs shall designate the proposed entity or entities entrusted with operating the European platform pursuant to paragraph 3(e).

5. By eighteen months after the approval of the proposal for the implementation framework for a European platform for the exchange of balancing energy from frequency restoration reserves with manual activation, all TSOs may develop a proposal for modification of the European platform for the exchange of balancing energy from frequency restoration reserves with manual activation pursuant to paragraph 1. Proposed modifications shall be supported by a cost-benefit analysis performed by all TSOs pursuant to Article 61. The proposal shall be notified to the Commission.

6. By thirty months after the approval of the proposal for the implementation framework for a European platform for the exchange of balancing energy from frequency restoration reserves with manual activation, or where all TSOs submit a proposal for modification of the European platform pursuant to paragraph 5, by 12 months after the approval of the proposal for

modification of the European platform, all TSOs shall implement and make operational the European platform for the exchange of balancing energy from frequency restoration reserves with manual activation and they shall use the European platform to:

- (a) submit all balancing energy bids from all standard products for frequency restoration reserves with manual activation;
- (b) exchange all balancing energy bids from all standard products for frequency restoration reserves with manual activation, except for unavailable bids pursuant to Article 29(14);
- (c) strive to fulfil all their needs for balancing energy from the frequency restoration reserves with manual activation.

Article 62

1. A regulatory authority in accordance with Article 37 of Directive 2009/72/EC may, at the request of a TSO or at its own initiative, grant the relevant TSOs a derogation from one or more provisions of this Regulation in accordance with paragraphs 2 to 12.
2. A TSO may request a derogation from the following requirements:
 - (a) the deadlines by which a TSO shall use the European platforms pursuant to Articles 19(5), **20(6)**, 21(6) and 22(5);
 - (b) the definition of the integrated scheduling process gate closure time in a central dispatching model pursuant to Article 24(5) and the possibility to change the integrated scheduling process bids pursuant to Article 24(6);
 - (c) the maximum volume of cross-zonal capacity allocated on a market-based process pursuant to Article 41(2) or a process based on an economic efficiency analysis pursuant to Article 42(2);
 - (d) the harmonisation of the imbalance settlement period in Article 53(1);
 - (e) the implementation of the requirements pursuant to Articles 45, 46, 47, 48, 49, 50, 51, 54, 55, 56 and 57.
3. The derogation process shall be transparent, non-discriminatory, non-biased, well documented and based on a reasoned request.
4. TSOs shall file a written request for derogation to the relevant regulatory authority at the latest six months prior to the day of application of the provisions from which the derogation is requested.
5. The request for derogation shall include the following information:
 - (a) the provisions from which a derogation is requested;
 - (b) the requested derogation period;
 - (c) a detailed plan and timeline specifying how to address and ensure the implementation of the concerned provisions of this Regulation after expiration of the derogation period;
 - (d) an assessment of the consequences of requested derogation on adjacent markets;
 - (e) an assessment of the possible risks for the integration of balancing markets across Europe caused by the requested derogation.
6. The relevant regulatory authority shall adopt a decision concerning any request for derogation within six months from the day after it receives the request. That time limit may be extended by three months before its expiry where the relevant regulatory authority requires further information from the TSO requesting the derogation. The additional period shall begin when the complete information has been received.
7. The TSO requesting the derogation shall submit any additional information requested by the relevant regulatory authority within two months of such request. If the TSO does not supply

the requested information within that time limit, the request for a derogation shall be deemed withdrawn unless, before its expiry, alternatively:

- (a) the relevant regulatory authority decides to provide an extension;
 - (b) the TSO informs the relevant regulatory authority by means of a reasoned submission that the request for a derogation is complete.
8. When assessing the request for derogation or before granting a derogation at its own initiative, the relevant regulatory authority shall consider the following aspects:
- (a) the difficulties related to the implementation of the concerned provision or provisions;
 - (b) the risks and the implications of the concerned provision or provisions, in terms of operational security;
 - (c) the actions taken to facilitate the implementation of the concerned provision or provisions;
 - (d) the impacts of non-implementation of the concerned provision or provisions, in terms of non-discrimination and competition with other European market participants, in particular as regards demand response and renewable energy sources;
 - (e) the impacts on overall economic efficiency and smart grid infrastructure;
 - (f) the impacts on other scheduling areas and overall consequences on the European market integration process.
9. The relevant regulatory authority shall issue a reasoned decision concerning a request for a derogation or a derogation granted at its own initiative. Where the relevant regulatory authority grants a derogation, it shall specify its duration. The derogation may be granted only once and for a maximum period of two years, except for the derogations in paragraphs 2(c) and 2(d) which may be granted until 1 January 2025.
10. The relevant regulatory authority shall notify its decision to the TSO, the Agency and the European Commission. The decision shall also be published on its website.
11. The relevant regulatory authorities shall maintain a register of all derogations they have granted or refused and shall provide the Agency with an updated and consolidated register at least once every six months, a copy of which shall be given to ENTSO-E.
12. The register shall contain, in particular: (a) the provisions from which the derogation is granted or refused; (b) the content of the derogation; (c) the reasons for granting or refusing the derogation; (d) the consequences resulting from granting the derogation.

3. THE DEROGATION REQUEST

The Derogation request was submitted to the Baltic NRAs on 1st of June 2021 by Latvian TSO 1st of June 2021 letter No. 2.5/2021/1790 on behalf of Baltic TSOs.

NRAs assessed the Derogation request and concluded that information provided in the Derogation request is sufficient for NRAs to adopt a decision.

Based on the arguments set out in the Derogation requests, the Baltic TSOs are requesting to grant derogation from the deadline by which a TSOs shall use the MARI platform as described in Article 20 (6) of EB GL until the Nordic TSOs (Sweden TSO, Finland TSO, Denmark TSO), join the MARI platform, but no later than July 24, 2024.

However, NRAs would like to point out that roadmap of derogation request is not harmonized with the roadmap of Baltic TSOs request for derogation from Article 53(1) of Commission

Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing which is approved by each Baltic NRAs. However, NRAs would address this issue with a separate letter.

4. THE NRAS POSITION

The NRAs, in close co-operation and co-ordination, have carefully assessed the Derogation request to reach an agreement that it meets the requirements of Article 62 of EB GL and agree to grant derogation from the deadline by which a Baltic TSOs shall use European platform for the exchange of balancing energy from frequency restoration reserves with manual activation (MARI) as described in Article 20 (6) of EB GL until the Nordic TSOs join the MARI platform, but no later than 24th of July 2024.

5. CONCLUSION

In accordance with Article 20(6) of EB GL by TSOs shall use MARI platform no later than Nordic TSOs join the MARI platform, but no later than 24th of July 2024. Thereby, NRAs must take their decisions to grant derogation from the provision of Article 20(6) of EB GL, based on this agreement, by 30 November 2021 at the latest.