

**DECISION No 08/2021
OF THE EUROPEAN UNION AGENCY
FOR THE COOPERATION OF ENERGY REGULATORS**

of 29 June 2021

on the definition of system operation regions

THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators¹ (Regulation (EU) 2019/942), and, in particular, Article 7(2)(a) thereof,

Having regard to Commission Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for Electricity, and, in particular, Article 36 (3) thereof,

Having regard to the outcome of the consultation with the European Network of Transmission System Operators for Electricity ('ENTSO-E') and the regulatory authorities,

Having regard to the outcome of the consultation with ACER's Electricity Working Group ('AEWG'),

Having regard to the favourable opinion of the Board of Regulators of 1 June 2021, delivered pursuant to Article 22(5)(a) of Regulation (EU) 2019/942,

Whereas:

1. INTRODUCTION

- (1) Commission Regulation (EU) 2019/943 of 5 June 2019 on the internal market for Electricity (the 'Electricity Regulation') defines a range of requirements for the internal Electricity market, and for the regional coordination of Transmission System Operators ('TSOs'), to be further developed with an enhanced institutional framework via the establishment of regional coordination centres ('RCCs'). These requirements

¹ OJ L158, 14.6.2019, p. 22.

include the geographical scope of RCCs in accordance with Article 36 of the Electricity Regulation.

- (2) Pursuant to Article 36(1) of the Electricity Regulation, ENTSO-E must develop a proposal defining system operation regions ('SORs') and submit it to ACER for approval. Within three months of receipt, ACER shall either approve the proposal or propose amendments in accordance with Article 7(2)(a) of Regulation (EU) 2019/942 and Article 36(3) of the Electricity Regulation.
- (3) By Decision No 10/2020 of 6 April 2020 ('Decision 10/2020'), ACER approved ENTSO-E's proposal of 6 January 2020 for the definition of SORs, however with amendments. Following an appeal by ENTSO-E against Decision 10/2020, ACER's Board of Appeal remitted the case to ACER's Director by Decision A-007-2020 of 24 September 2020 ('BoA Decision').
- (4) The present Decision replaces Decision 10/2020. Annex I to this Decision defines the SORs as decided by ACER.

2. PROCEDURE

2.1. Proceedings before ACER

- (5) In accordance with Article 36(1) of the Electricity Regulation, ENTSO-E had to submit a proposal for SORs by 5 January 2020.
- (6) On 24 October 2019, ENTSO-E published for public consultation the draft ENTSO-E proposal for SORs definition in accordance with Article 36(1) of the Electricity Regulation². The consultation lasted from 24 October 2019 until 20 November 2019. ACER was not informally consulted by ENTSO-E prior to the launch of the public consultation.
- (7) On 6 January 2020, ENTSO-E submitted to ACER an ENTSO-E proposal for SOR definition in accordance with Article 36(1) of the Electricity Regulation (the 'Proposal').
- (8) On 6 January 2020, ACER launched a public consultation on the Proposal, inviting all stakeholders to submit their comments by 19 January 2020. The public consultation document asked stakeholders to provide views on four specific topics of the proposal, as well as allowed respondents to submit comments on any other views. The responses received, as well as ACER's assessment of the responses received, are presented in Annex II to this Decision.

² https://consultations.entsoe.eu/system-operations/sor-proposal/supporting_documents/191024%20ENTSOE%20proposal%20for%20System%20Operation%20Regions%20CEP%20art.%2036_for%20public%20consultation.docx

- (9) A bilateral consultation with ENTSO-E was planned and agreed in advance in order to ensure a swift and efficient decision-making process.
- (10) During and after the public consultation, ACER closely cooperated with regulatory authorities, TSOs and ENTSO-E and further consulted on the intended amendments to the Proposal through telephone conference calls and electronic exchanges of intended amendments. In particular, the following steps were taken:
- *14 January 2020: telephone conference call with the European Commission, Danish regulatory authority, Danish TSO on specifics for its control area being part of Nordic and Continental Europe synchronous areas;*
 - *16 January 2020: telephone conference call with all regulatory authorities in the framework of ACER's System Operation Grid Connection Taskforce (SOGC TF);*
 - *20 January 2020: telephone conference call with regulatory authorities and TSOs from South West CCR (ES, FR, PT);*
 - *21 January 2020: telephone conference call with ENTSO-E and all regulatory authorities;*
 - *22 January 2020: telephone conference call with Italian regulatory authority and Italian TSO on specifics for GRIT CCR;*
 - *23 January 2020: telephone conference call with relevant regulatory authorities and TSOs regarding the DK1 bidding zone (DK, DE, NE);*
 - *28 January 2020: telephone conference call with ENTSO-E and TSOs regarding the treatment of third countries' TSOs;*
 - *29 January 2020: draft amendments to the Proposal were sent to ENTSO-E and all regulatory authorities;*
 - *30 January 2020: telephone conference call with ENTSO-E and all regulatory authorities;*
 - *5 February 2020: telephone conference call with all regulatory authorities;*
 - *7 February 2020: telephone conference call with ENTSO-E and all regulatory authorities;*
 - *12 February 2020: orientation discussion at the AEWG;*
 - *13 February 2020: telephone conference call with ENTSO-E, Austrian regulatory authority and Austrian TSOs APG and VUEN on specifics for VUEN;*
 - *14 February 2020: telephone conference call with ENTSO-E and all regulatory authorities;*
 - *18 February 2020: telephone conference call with Italian regulatory authority and Italian TSO on specifics for GRIT CCR;*
 - *18 February 2020: amendments to the Proposal, along with the legal reasoning, were sent to ENTSO-E and all regulatory authorities;*

- *19 February 2020: ENTSO-E submission to ACER of a written Position Paper regarding Central Europe SOR (CE SOR);*
- *20 February 2020: additional telephone conference call with ENTSO-E and all regulatory authorities, as per ENTSO-E request, to hear ENTSO-E's views on ACER's proposed changes to the Proposal.*
- *27 February 2020: telephone conference call with all regulatory authorities in the framework of the SOGC TF;*
- *5 March 2020: ACER amendments to the Proposal discussed at the AEWG.*

(11) Following the BoA Decision, the following steps were taken:

- *25 January 2021: telephone conference call with the Irish Regulator, CRU and the European Commission to discuss IU SOR following the withdrawal of the UK from the EU;*
- *18 February 2021: telephone conference call with the Irish Regulator, CRU and the European Commission to discuss IU SOR following the withdrawal of the UK from the EU;*
- *24 February 2021: Orientation discussion at the AEWG;*
- *4 March 2021: amendments to Decision 10/2020, along with the legal reasoning, were sent to ENTSO-E and all regulatory authorities for their comments;*
- *8 April 2021: draft amended decision discussed at the AEWG;*
- *9 April 2021: telephone conference call with the Italian Regulator, ARERA, to discuss GRIT SOR;*
- *15 April 2021: telephone conference call with the Spanish Regulator, CNMC, to discuss SWE SOR;*
- *23 April 2021: telephone conference call with the French regulator, CRE, to discuss SWE SOR.*

3. ACER'S COMPETENCE TO DECIDE ON THE PROPOSAL

(12) Pursuant to Article 7(2)(a) of Regulation (EU) 2019/942, as well as Article 36(3) of the Electricity Regulation, ACER shall decide on the proposal defining the system operation regions, by approving it or proposing amendments, within three months of receipt of such proposal from ENTSO-E.

(13) Since ENTSO-E submitted the Proposal in accordance with Article 36(1) of the Electricity Regulation, ACER is competent to decide on this Proposal according to Article 7(2)(a) of Regulation (EU) 2019/942 and Article 36(3) of the Electricity Regulation.

4. SUMMARY OF THE PROPOSAL

- (14) The Proposal consists of the following elements:
- (a) The ‘Whereas’ section and Articles 1 and 2, which include the subject matter and scope, as well as the definitions and interpretation;
 - (b) Article 3, which contains the proposal for SORs based on the capacity calculation regions and includes the relevant TSOs, outage coordination regions, bidding zones and bidding zone borders;
 - (c) Article 4, which includes the proposal on coordination of the bidding zone borders adjacent to SORs and specifies how the coordination between RCCs for those borders is to take place;
 - (d) Articles 5 to 7, which address consultation with the regulatory authorities and relevant stakeholders, the implementation of the Proposal and language.
- (15) For the sake of clarity, ACER wishes to emphasise that ENTSO-E’s informative annexes to the Proposal are not part of ACER’s Decision. A list of the third countries mentioned in ENTSO-E’s informative annexes is included in Annex III to this Decision, for information.

5. SUMMARY OF THE OBSERVATIONS RECEIVED BY ACER

5.1. Public consultation

- (16) On 6 January 2020, ACER launched a public consultation on the Proposal, inviting all stakeholders to submit their comments by 19 January 2020. The public consultation document asked stakeholders to provide views on four specific topics of the Proposal: (i) the ‘Whereas’ section, covering the legal scope of the Proposal, as well as the participation of third countries, (ii) the proposal for SORs, including the scope for RCCs and SORs definition in light of grid topology, degree of interconnection and flows today and in the future, (iii) the coordination of the bidding zone borders adjacent to SORs, covering also the participation of non-EU TSOs, (iv) the consultation with the regulatory authorities and relevant stakeholders, including the coordination rules for RCCs and between different SORs. In addition, the public consultation document allowed stakeholders to submit comments on any other views.
- (17) ACER received responses from five stakeholders. The evaluation of the responses received is presented in Annex II to this Decision. It contains stakeholders’ concerns regarding the questions covering the above mentioned issues, summarised below:
- (a) Regarding the legal scope and participation of third countries in SORs addressed in the ‘Whereas’ section of the Proposal, as well as touched upon in Article 2 thereof, two stakeholders supported the proposed approach by ACER to remove references to Article 35 of the Electricity Regulation as it is out of scope of the Proposal, as well as not to take into consideration in this Decision the informative annexes to the Proposal. However, the majority of stakeholders argued for the inclusion of third countries in the definition of SORs; the majority of respondents

stated their concerns regarding the possibility of involving third countries in the SOR or RCC. Three respondents stated that they see “no reason to exclude borders with adjacent non-EU countries, where the EU legislation does not apply, to ensure the possibility of an efficient coordination with the same tools and mechanisms”. Nevertheless, all three respondents acknowledged the legal issues surrounding the inclusion of third countries in the SORs;

- (b) Two of three stakeholders who answered ACER’s question regarding the range of tasks to be covered by the Proposal agreed with ACER’s position that the entire range of tasks for RCCs listed in Annex I of the Electricity Regulation should be included in the Proposal;
- (c) Regarding the scope for RCCs and SORs definition in light of grid topology, degree of interconnection and flows today and in the future, two of the three stakeholders who provided an answer to this question supported ACER’s initial views to list the entire range of tasks of Annex I of the Electricity Regulation; those stakeholders also agreed that the Proposal did not take adequately into account the grid topology, including the degree of interconnection and of interdependency of the electricity system in terms of flows today and in the near future. The same two stakeholders stated that “the most logical composition of System Operation Regions should be by synchronous system”. The third stakeholder (ENTSO-E) emphasised its availability to provide more clarifications to ACER in this regard (which was later done as described in paragraph (10));
- (d) Regarding the coordination rules for RCCs and between different SORs, stakeholders supported ACER’s proposal to delete the provisions which did not stem from Article 36 of the Electricity Regulation;
- (e) Regarding other topics, two stakeholders expressed concerns whether the Proposal adequately took into account future network and market developments, as well as a closer system operation coordination. Respondents “would like to encourage ACER and TSOs to take future network and market developments into account when defining SORs” and stated, quote: “*The current proposal for SORs seems to be the reflection of the current situation without taking future network and market developments nor the required closer system operation cooperation into account.*”.

5.2. Consultation of ENTSO-E, TSOs and regulatory authorities

- (18) During the close cooperation between ACER, regulatory authorities, ENTSO-E and TSOs as detailed in paragraph (10) above, ACER:
 - (a) Discussed the comments received during the public consultation (see section 5.1.);
 - (b) Discussed and further clarified the purpose and scope of the Proposal and excluded topics, for example reference to organisational/coordination or governance aspects concerning future RCC establishment, that were out of scope;
 - (c) With respect to the participation of third countries, further clarified the scope of the Proposal and discussed the inclusion of a new recital on the importance of third

countries for secure system operations, as well as a timeline for the conclusion of agreements with third countries;

- (d) Discussed the definition of the SORs in light of grid topology, including the degree of interconnection and of interdependency of the electricity system in terms of flows today and in the near future, and discussed different options for the definition of SOR in accordance with both technical and legal requirements, namely those contained in Chapter V of the Electricity Regulation;
 - (e) With respect to future RCCs, discussed the scope regarding legal provisions and tasks to be performed, as well as discussed the ability for other TSOs, not those participating in the SOR, to contribute to the decision-making process when establishing the RCCs and in particular in carrying out and developing the procedure for the adoption and revision of coordinated actions and recommendations issued by RCCs;
 - (f) With respect to the applicability on TSOs, discussed which TSOs should be named in the Proposal based on the responsibilities assigned to TSOs at national level or the designation of TSOs at national level, and discussed the inclusion of a new paragraph to address circumstances where more than one TSO exists in a Member State;
 - (g) Discussed rules and procedures with respect to coordination aspects for the bidding zone borders adjacent to SORs;
 - (h) Discussed ACER's intended amendments to the Proposal with the AEWG.
- (19) On 19 February 2020, ENTSO-E submitted to ACER a Position Paper in response to ACER's intent to define a single SOR for the Continental Europe Synchronous Area ('CE SA').
 - (20) In this Position Paper, containing key statements, legal clarifications and technical considerations, ENTSO-E asked ACER to accept the SORs as defined by ENTSO-E and withdraw its alternative configuration of one SOR for the whole CE SA.
 - (21) ENTSO-E explained in its Position Paper why, in its view, ACER's configuration of one SOR for the whole CE SA does not take into account grid topology, degree of interconnection and interdependency in terms of flows, while at the same time would raise a number of difficulties, costs and risks.
 - (22) ACER heard ENTSO-E's concerns and views presented in its Position Paper during an additional telephone conference call, held as per ENTSO-E's request, on 20 February 2020.
 - (23) During the abovementioned conference call, ACER and ENTSO-E were able to agree on a number of necessary amendments of the proposal (on all aspects other than the configuration of the SOR(s) in the CE SA).

- (24) On 5 March 2020, the AEWG discussed ACER’s intended amendments to the Proposal, analysed legal and technical requirements of the Electricity Regulation, as well as analysed the risks and benefits of SOR definitions, both as proposed and as amended by ACER. Participants’ opinions were divided on the issue of creating a single SOR for CE SA.
- (25) Following the meeting, on 10 March 2020, the AEWG made the following recommendations in order to reach a compromise between the different views, quote:
- a. *“Keep the SOR South-East Europe (SEE), considering different operational and organisational requirements in the SORs Central Europe (CE) and SEE and also the already announced setup of a regional security centre (RSC) in Thessaloniki. The Romanian TSO would be part of the SOR CE and establish cooperation with SOR SEE via contractual arrangements;”*
 - b. *“Include the SOR South-West Europe (SWE) in the SOR CE, to avoid participation of the French TSO in two SORs;” and*
 - c. *“Solve the double participation of the Italian TSO with the allocation of Terna to the SOR CE and providing for coordination in the SOR SEE via contractual arrangements. The Italy Northern Borders CCR would be part of the SOR CE. The Greece and Italy (GRIT) CCR would act as interface between the SORs CE and SEE.”*
- (26) The AEWG further emphasised that “generally, an efficient and effective coordination between the SORs (especially the SORs in one synchronous area) and, later in the process, their RCCs in terms of organisational approach as well as technical interfaces seems to be relevant for the NRAs.”
- (27) In conclusion, the AEWG “strongly asked for a compromise solution in this important decision, to strengthen the future implementation and enforcement procedures with a broad majority of NRAs, also taking into account that the definition of the SORs is the base for the setup of the regional coordination centres (RCCs), which develop from the RSCs.”
- (28) Following the BoA Decision, ACER’s draft amended decision was sent to ENTSO-E. On 25 March 2021, ENTSO-E submitted written observations covering the following points:
- a) Background, details on the ENTSO-E proposal for SOR configuration, Decision 10/2020 and the BoA Decision and the steps after the BoA Decision: ENTSO-E provided an overview of the background to the proposal, its considerations regarding the definition of SOR leading up to Decision 10/2020 and then an assessment following the BoA Decision.
 - b) The case of Greece-Italy region: ENTSO-E presented in detail its views regarding the consideration of the proposed GRIT SOR, namely that the Italian transmission system is a peninsular and insular grid with multiple bidding zones, spanning over two synchronous areas, presenting detail on the

establishment of SEleNE CC as the GRIT and SEE RSC, proposing amendments and making other specific comments regarding the SOR decision and presenting its conclusions on the case of GRIT SOR.

- c) The case of South West Europe: ENTSO-E presented in detail its views regarding the consideration of the proposed SWE SOR, namely emphasising the Proposal's consistency with Article 36(2) of the Electricity Regulation, that TSOs have differentiated requirements to address at SOR level; ENTSO-E also assessed the interdependency of SWE and the test passed by ACER, explained the coordination of remedial actions in the French power system and the cross-CCR coordinated security assessments and the temporary nature of SWE CCRs, presented reasons that consider that the ACER's draft amended decision is a risk for SWE and inefficient for CE SOR and presented its conclusions on the case of SWE SOR.
 - d) The case of Ireland: ENTSO-E acknowledged ACER's proposed addition of EirGrid and SONI to CE SOR and that their obligations pertaining to the RCCs' tasks shall become effective only upon the start of the operation of the Celtic Interconnector between Ireland and France.
 - e) Additional concern with the ACER draft amended decision: ENTSO-E highlighted a concern regarding Article 3(4) of Decision 10/2020, namely regarding its interaction with Article 36(3) of the Electricity Regulation and suggesting its revision ENTSO-E to reflect the necessary involvement of ENTSO-E in any future changes to the SOR decision. Additionally, ENTSO-E noted that the Finnish TSO Kraftnät Åland of the Åland Islands is missing from the Nordic SOR.
 - f) TSOs calculations: ENTSO-E submitted an annex containing TSOs calculations regarding zone-to-zone PTDF, reasoning as to why this would be the correct method to check interdependency and an explanation on the effect of outages/contingencies in the flows of the other border.
- (29) On 8 April and 11 May 2021, the AEWG discussed ACER's intended revisions to Decision 10/2020 and intended amendments to the Proposal, as well as the views put forward by ENTSO-E in its hearing submission.
- (30) On 14 May 2021, the AEWG broadly endorsed the draft ACER Decision on the definition of system operation regions (including the late change related to a TSO's proposal to extend the deadline from six to ten months for TSOs to comply with the requirements of Article 5 of the Decision) and supported that the proposed editorial changes received in the commenting phase were considered by ACER. The AEWG stated that three NRAs submitted comments, including one substantial disagreement of the legal interpretation whether a TSO can belong to more than one SOR, however clarified that no other NRA had actively shared this interpretation.
- (31) Following the AEWG's advice, ACER made all editorial changes proposed by NRAs, as explained in section 6.2.3.2.8 below.

6. ASSESSMENT OF THE PROPOSAL

6.1. Legal framework

- (32) Article 30(1)(f) and Article 36(1) of the Electricity Regulation require ENTSO-E to adopt a proposal for the definition of SORs and, by 5 January 2020, submit it to ACER for decision.
- (33) Article 31 of the Electricity Regulation requires ENTSO- E to consult on the proposal for the definition of SORs.
- (34) Article 36 of the Electricity Regulation sets out requirements for the development and the content of the proposal for the definition of SORs.

6.2. Assessment of the legal requirements

6.2.1. Assessment of the requirements for the development, implementation and publication of the Proposal

- (35) The procedure for the development of the Proposal did respect the requirements of Article 36(1) of the Electricity Regulation. Indeed, the Proposal was subject to consultation as described in Section 2.1 above and it was submitted in time to ACER.
- (36) ENTSO-E submitted the Proposal on 6 January 2020. Indeed, 5 January 2020 was a Sunday so the Proposal was actually submitted on the next working day. In addition, Article 36 of the Electricity Regulation does not declare a submission after 5 January 2020 as invalid. In ACER's view, it is not the purpose of the deadline of 5 January 2020 to exclude any later submission.
- (37) Therefore, ACER considers the submission of the Proposal as valid.

6.2.2. Assessment of the requirements for consultation, transparency and stakeholder involvement

- (38) ACER considers that ENTSO-E fulfilled the requirements of Article 31 of the Electricity Regulation, since stakeholders were consulted on the draft Proposal. This involvement took place during a public consultation, which ran from 24 October 2019 until 20 November 2019.
- (39) In addition, ENTSO-E and regulatory authorities were informed and consulted before submitting the Proposal to ACER.
- (40) The justifications regarding the consideration given to the views expressed by stakeholders during the public consultation in the drafting of the Proposal were provided in a separate document submitted to ACER.

6.2.3. Assessment of the requirements under Article 36 of the Electricity Regulation

6.2.3.1. *The requirements of Article 36 of the Electricity Regulation*

- (41) The legal requirements of Article 36(1) and Article 36(2) of the Electricity Regulation are cumulative criteria.³ Consequently, the Proposal must be compliant with respect to the legal requirements of both Article 36(1) and Article 36(2) of the Electricity Regulation.
- (42) In accordance with settled case-law,⁴ those requirements are to be interpreted in view of the wording of Article 36 of the Electricity Regulation, while also having regard to the context in which that provision occurs and the objectives pursued by the rules of which that provision is part.

6.2.3.2. *The requirements of Article 36(1) of the Electricity Regulation*

- (43) Article 36(1) states that “[b]y 5 January 2020 the ENTSO for Electricity shall submit to ACER a proposal specifying which transmission system operators, bidding zones, bidding zone borders, capacity calculation regions and outage coordination regions are covered by each of the system operation regions. The proposal shall take into account the grid topology, including the degree of interconnection and of interdependency of the electricity system in terms of flows and the size of the region which shall cover at least one capacity calculation region”.
- (44) Article 36(1) of the Electricity Regulation contains several requirements:
- The first sentence of Article 36(1) of the Electricity Regulation prescribes that the Proposal must specify which TSOs, bidding zones, bidding zone borders, capacity calculation regions and outage coordination regions are covered by each of the SORs;
 - The second sentence of Article 36(1) of the Electricity Regulation prescribes that the Proposal shall take into account the grid topology, including the degree of interconnection and of interdependency of the electricity system in terms of flows;
 - Furthermore, the second sentence of Article 36(1) of the Electricity Regulation prescribes that the Proposal shall take into account the size of the region which shall cover at least one capacity calculation region.
- (45) While the first and the third requirements of Article 36(1) of the Electricity Regulation are rather formal, the second one is more substantial. In particular, the requirement to take into account the “*grid topology, including the degree of interconnection and of interdependency of the electricity system in terms of flows*” should be interpreted in light of the following recitals of the Electricity Regulation:
- “*The establishment of regional coordination centres should take into account existing or planned regional coordination initiatives and should support the*

³ As confirmed in Case A-007-2020, Decision of the Board of Appeal of 24 September 2020, para. 78.

⁴ Judgment of 23 January 2020, *Energiavirasto*, C-578/18, EU:C:2020:35, para. 24 and case-law cited.

increasingly integrated operation of electricity systems across the Union, thereby ensuring their efficient and secure performance.” (Recital (53));

- *“The geographical scope of regional coordination centres should allow them to contribute effectively to the coordination of the operations of transmission system operators across regions and should lead to enhanced system security and market efficiency.” (Recital (54));*
- *“Regional coordination centres should carry out tasks where their regionalisation brings added value compared to tasks performed at national level. The tasks of regional coordination centres should cover the tasks carried out by regional security coordinators pursuant to the Commission Regulation (EU) 2017/1485 as well as additional system operation, market operation and risk preparedness tasks.” (Recital (55));*
- *“In performing their tasks, regional coordination centres should contribute to the achievement of the 2030 and 2050 objectives set out in the climate and energy policy framework.” (Recital (56)).*

(46) ACER has considered several elements when taking into account “*the grid topology*”, including but not limited to the use of modelling. ACER considered, among others, the following elements:

- (i). The synchronous area (‘SA’) as a starting point to assess the scope of the region (as high voltage direct current (‘HVDC’) lines are all individual elements and SAs in Europe are interconnected by HDVC lines and therefore the power flow between SAs is more readily controllable than within a SA);
- (ii). The joint participation of the different TSOs of a SA in the same RSC⁵ (as “*(t)he establishment of regional coordination centres should take into account existing [...] regional coordination initiatives*”⁶);
- (iii). The expected development of interconnection between bidding zones (as “*[i]n performing their tasks, regional coordination centres should contribute to the achievement of the 2030 and 2050 objectives set out in the climate and energy policy framework*”⁷);
- (iv). The extent to which remedial actions located in a bidding zone, which has borders with several CCRs, can efficiently address congestions within other bidding zones also having borders with some of these CCRs (as “*[r]egional coordination centres should carry out tasks where their regionalisation brings*

⁵ In the multilateral agreement that ENTSO-E members have all signed, RSCs must carry out five services: (i) security analysis; (ii) capacity calculation; (iii) outage coordination; (iv) adequacy forecast; and (v) common grid model.

⁶ Recital (53) of the Electricity Regulation.

⁷ Recital (56) of the Electricity Regulation.

*added value compared to tasks performed at national level*⁸). This is equivalent to an assessment of the interdependency of remedial actions between several CCRs. In accordance with the methodology for coordinated operational security analysis (CSAM),⁹ the TSOs are required to carry out a coordinated cross-regional operational security assessment. This assessment comprises a common cross-regional coordination process, for the coordination of remedial actions, involving TSOs and RSCs (potential future RCCs) of all impacting CCRs. In case of interdependencies of remedial actions between several CCRs, ACER considers that TSOs can achieve the coordination more efficiently, and enhance system security, if these TSOs are placed in one SOR.

- (47) As regards the extent to which remedial actions located in a bidding zone, which has borders with several CCRs, can efficiently address congestions within other bidding zones also having borders with some of these CCRs, ACER conducted a modelling analysis on a voluntary basis for the purpose of identifying the interdependency of remedial actions between several CCRs, i.e. to take into account the “*interdependency of the electricity system in terms of flows*”¹⁰. A detailed methodological description of this modelling analysis is provided in Annex IV to this Decision. However, it is important to note that the Electricity Regulation does not prescribe the use of modelling of any kind in order to take into account the “*grid topology, including the degree of interconnection and of interdependency of the electricity system in terms of flows*”.¹¹
- (48) Moreover, ACER’s modelling analysis only covers the remedial actions located in France that significantly address congestion issues both in Italy and Spain, as ACER is solely amending the Proposal, as regards the SORs configurations, by integrating the SWE CCR and the Italy North CCR into the CE SOR. The reasoning for these amendments is explained in detail in paragraphs (98)-(122) for the SWE SOR and paragraphs (123)-(138) for the GRIT SOR.

6.2.3.3. *The requirements of Article 36(2) of the Electricity Regulation*

- (49) Article 36(2) states that “[t]he transmission system operators of a system operation region shall participate in the regional coordination centre established in that region. In exceptional circumstances, where the control area of a transmission system operator is part of various synchronous areas, the transmission system operator may participate in two regional coordination centres. For the bidding zone borders, adjacent to system operation regions, the proposal in paragraph 1 shall specify how the coordination between regional coordination centres for those borders is to take place. For the Continental European synchronous area, where the activities of two

⁸ Recital (55) of the Electricity Regulation.

⁹ See Annex I of ACER Decision 07-2019 on the Methodology for Coordination Operational Security Analysis.

¹⁰ Article 36(1) of the Electricity Regulation.

¹¹ By analogy, see Case A-004-2019 (consolidated), Decision of the Board of Appeal of 6 August 2019, para 253.

regional centres may overlap in a system operation region, the transmission system operators of that system operation region shall decide to either designate a single regional coordination centre in that region or that the two regional coordination centres carry out some or all of the tasks of regional relevance in the entire system operation region on a rotational basis while other tasks are carried out by a single designated regional coordination centre”.

- (50) It follows from the first and second sentence of Article 36(2) of the Electricity Regulation that:
- As a main rule, TSOs of a SOR can only participate in the RCC established in that region.
 - By way of derogation, TSOs can participate in two RCCs in only one exceptional situation, namely where the control area of a TSO is part of various SAs.
- (51) Therefore, in line with settled case-law, the wording of Article 36(2) is sufficiently clear and unambiguous so that the preambles of the Electricity Regulation cannot be relied upon as a ground for derogating from the actual provisions in question.¹² Moreover, given that exceptions are to be interpreted strictly, it follows that, when the exceptional circumstances specifically defined under the second sentence of Article 36(2) of the Electricity Regulation are not met, TSOs of a SOR must participate in the RCC established in that region.
- (52) The third sentence of Article 36(2) of the Electricity Regulation requires that the Proposal should specify, for the bidding zone borders adjacent to SORs, how the coordination between RCCs for those borders is to take place.
- (53) Finally, the fourth sentence of Article 36(2) of the Electricity Regulation requires that for the CE SA, where the activities of two RCCs may overlap in a SOR, the TSOs of that SOR decide to either designate a single RCC in that region or that the two RCCs carry out some or all of the tasks of regional relevance in the entire SOR on a rotational basis, while other tasks are carried out by a single designated RCC.
- (54) As such, the fourth sentence of Article 36(2) of the Electricity Regulation establishes an exception for the CE SA in relation to Article 37 of the Electricity Regulation according to which each RCC shall carry out its tasks of regional relevance (listed in its paragraph (1) and detailed in Annex I of the Electricity Regulation) in the entire SOR where it is established. ACER understands that when such an overlap is not present in the CE SA, a single RCC, or its regional desk (established in accordance with Article 44 of the Electricity Regulation), may individually carry out its tasks, including those of sub-regional specificity, as defined in accordance with Article 35

¹² Judgment of the Court of Justice of 22 April 2010, Commission/UK, C-346/08, EU:2010:313, para. 39, and case-law cited, and judgement of the Court of Justice of 20 December 2017, Acacia and D’Amato, C-397/16 and C-435/16, EU:C:2017:992, para. 40, and the case-law cited.

of the Electricity Regulation, such as for example coordinated security analysis in accordance with the methodology developed in the concerned CCR.

6.2.3.4. Assessment of the Proposal and amendments to the Proposal on a regional basis under Article 36 of the Electricity Regulation

- (55) ENTSO-E proposed seven SORs – CE SOR, Baltic SOR, Nordic SOR, IU SOR, SWE SOR, GRIT SOR and SEE SOR – largely based on existing CCRs and, to some extent, along the borders of SAs, as well as taking into account a few regional specificities concerning peninsulas of the CE SA. As stated in ENTSO-E’s Position Paper of 19 February 2020, ENTSO-E considered that the Proposal met all legal requirements, was not questioned by stakeholders in the public consultation and was the only one which would allow timely implementation of the SOR/RCC framework.
- (56) The following subsections detail ACER’s assessment with regards to the compliance of each proposed SOR with the legal requirements of Article 36 of the Electricity Regulation and the necessary amendments introduced by ACER to the Proposal in accordance with these legal requirements.

6.2.3.5. Nordic SOR

- (57) In ACER’s view, the Proposal fulfils the requirements of the first sentence of Article 36(1) of the Electricity Regulation in the sense that it specifies which TSOs, bidding zones, bidding zone borders, CCRs and outage coordination regions are covered by the Nordic SOR. The Proposal contains in Article 3 a table with the aforementioned specifications.
- (58) The Proposal fulfils the requirements of the second sentence of Article 36(1) of the Electricity Regulation with regard to the requirement that the size of the SOR “*shall cover at least one capacity calculation region*”,¹³ as the Nordic SOR includes a complete list of the bidding zone borders of the concerned CCR.
- (59) As regards the second requirements of Article 36(1) of the Electricity Regulation, to take into account the “*grid topology, including the degree of interconnection and of interdependency of the electricity system in terms of flows*”, ACER understands that there is a strong interdependency inside a SA because of the existence of alternative current (‘AC’) interconnections between TSOs’ control areas. In such a case, electricity flows according to the laws of physics (i.e. over the path of least resistance (impedance)) and cannot therefore be fully controlled by the TSOs. Conversely, in case of interconnected SAs, the interconnections take the form of HVDC systems comprised of at least two HVDC converter stations with direct current (‘DC’)

¹³ Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management OJ L 197, 25.7.2015, p. 24–72 (‘CACM Regulation’). In this regard, CCRs shall be considered as the bidding zone borders within and between Members States to which the CACM Regulation applies.

transmission lines or cables between the HVDC converter stations. In such cases, the interdependency between SAs is significantly reduced compared with that of the AC interconnections. This is because of the full controllability of the transmitted active power flow between the HVDC converter stations. The following control areas belong to the Nordic SA: Denmark 2 (DK2), FI, SE1, SE2, SE3 and SE4, of which DK2 is controlled by the Danish TSO (Energinet) (DK1), FI by the Finnish TSO (Fingrid) and SE1, SE2, SE3 and SE4 by the Swedish TSO (Svenska Kraftnät). In addition to these control areas, the Proposal includes in the Nordic SOR one control area CE SA, i.e. Denmark 1 (DK1) which is also managed by Energinet. However, this control area is currently in terms of flows very weakly connected with CE SA. Also, in the telephone conference call with the European Commission, Danish regulatory authority, Danish TSO on 14 January 2020, it has been brought to ACER attention that the DK1 control area connections with the Continental Europe SA behave today as that of the DC transmission lines and offer Energinet full controllability of the transmitted active power flows with the CE SA. In addition, no concerns with placing the DK1 control area in Nordic SOR have been expressed during a dedicated telephone conference call with the relevant regulatory authorities and TSOs of DK, DE and NE on 23 January 2020. Therefore, ACER finds the configuration of the Nordic SOR as defined in the Proposal compliant with the second requirements of Article 36(1) of Electricity Regulation.

- (60) As regards the first and second sentence of Article 36(2) of the Electricity Regulation, Energinet's control area is part of two different SAs, i.e. Nordic SA and CE SA. There are two Danish bidding zones. Denmark 1 (DK1) is part of the CE SA and Denmark 2 (DK2) is part of the Nordic SA. Therefore, Energinet could be placed in two different SORs.
- (61) As the exception contained in Article 36(2) of the Electricity Regulation offers the option, but does not impose an obligation to the TSO, ACER deems this proposal compliant with Article 36(2) of the Electricity Regulation. Therefore, ACER agrees to keep both Danish bidding zones in the Nordic SOR and handle the coordination for the border to the CE SOR as proposed in Article 4(3) of the Proposal.
- (62) The Proposal partly fulfils the requirements of the third sentence of Article 36(2) of the Electricity Regulation with regard to specifying how the coordination between RCCs is to take place for the bidding zone borders adjacent to SORs.
- (63) ENTSO-E proposes to use all given flexibility to coordinate all adjacent borders in the most efficient way and has outlined the criteria for the coordination of the adjacent borders to SORs as proposed. However, ACER found it necessary to amend Article 4 of the Proposal to clarify for which adjacent borders this is applicable and how the coordination would take place. This change was agreed to by ENTSO-E. More detail is provided below in section 6.2.3.12.
- (64) In its hearing submission of 25 March 2021, ENTSO-E noted that the Finnish TSO Kraftnät Åland is missing from the Nordic SOR. ACER has amended the Proposal to integrate this TSO in the Nordic SOR.

- (65) Provided that the amendments described above are integrated in the Proposal, ACER considers the proposed Nordic SOR is in line with the cumulative criteria of Article 36(1) and Article 36(2) of the Electricity Regulation.

6.2.3.6. *Baltic SOR*

- (66) In ACER's view, the Proposal fulfils the requirements of the first sentence of Article 36(1) of the Electricity Regulation in the sense that it specifies which TSOs, bidding zones, bidding zone borders, CCRs and outage coordination regions are covered by the Baltic SOR. The Proposal contains in Article 3 a table with the aforementioned specifications.
- (67) The Proposal fulfils the requirements of the second sentence of Article 36(1) of the Electricity Regulation with regard to the requirement that the size of the SOR “*shall cover at least one capacity calculation region*”, as the Baltic SOR includes a complete list of the bidding zone borders of the concerned CCR.
- (68) ACER understands that the Baltic SA consists of control areas of the three Baltic TSOs (Litgrid, AST and Elering).
- (69) ACER also understands that the Baltic CCR includes, in addition to the above mentioned TSOs, the TSOs of Finland, Sweden and Poland. These latter TSOs are however connected to the Baltic SA via HVDC systems.
- (70) According to Article 36(1) of the Electricity Regulation, the Proposal needs to take into account the grid topology, including the degree of interconnection and of interdependency of the electricity system in terms of flows. ACER understands that there is a strong interdependency inside a SA because of the existence of alternative current (‘AC’) interconnections between TSOs’ control areas. In such a case, electricity flows according to the laws of physics (i.e. over the path of least resistance (impedance)) and cannot therefore be fully controlled by the TSOs. Conversely, in case of interconnected SAs, the interconnections take the form of HVDC systems comprised of at least two HVDC converter stations with direct current (‘DC’) transmission lines or cables between the HVDC converter stations. In such cases, the interdependency between SAs is significantly reduced compared with that of the AC interconnections. This is because of the full controllability of the transmitted active power flow between the HVDC converter stations. Therefore, ACER agrees with the configuration of the Baltic SOR as defined in the Proposal.
- (71) The Proposal fulfils the criteria of the first and second sentence of Article 36(2) of the Electricity Regulation, as each TSO of the Baltic SOR, whose control area is part of the same SA, would participate in only one RCC established in that region.
- (72) The Proposal partly fulfils the requirements of the third sentence of Article 36(2) of the Electricity Regulation with regard to specifying how the coordination between RCCs is to take place for the bidding zone borders adjacent to SORs.
- (73) ENTSO-E proposes to use all given flexibility to coordinate all adjacent borders in the most efficient way and has outlined the criteria for the coordination of the adjacent

borders to SORs as proposed. However, ACER found it necessary to amend Article 4 of the Proposal to clarify for which adjacent borders this is applicable and how the coordination would take place. This change was agreed to by ENTSO-E. More detail is provided below in section 6.2.3.12.

- (74) Provided that the amendments described above are integrated in the Proposal, ACER considers the proposed Baltic SOR is in line with the cumulative criteria of Article 36(1) and Article 36(2) of the Electricity Regulation.

6.2.3.7. IU SOR

- *The IU SOR proposed by ENTSO-E*

- (75) The proposed IU SOR consists of: the Irish TSO (EirGrid), the Northern Irish TSO (SONI) and the British TSO (NG ESO); the Irish and British bidding zones; and all the bidding zone borders included in the IU and Channel CCRs.

- *Assessment of the Proposal under Article 36(1) and Article 36(2) of the Electricity Regulation and under the EU-UK Agreement*

- (76) The Proposal specifies, in accordance with Article 36(1) of the Electricity Regulation, which TSOs, bidding zones, bidding zone borders, CCRs and outage coordination regions are covered by the IU SOR. However, the proposed IU SOR includes the GB TSO NG ESO and the Northern Ireland TSO SONI. Following the UK's withdrawal from the EU¹⁴ and since the SOR definition concerns EU Member States only, non-EU TSOs must be removed from the SOR definition.¹⁵ Therefore, references throughout the Proposal to the NG ESO were deleted. In accordance with the Protocol on Ireland/Northern Ireland ('IE/NI Protocol'), included in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ('Withdrawal Agreement')¹⁶, the provisions of Union law governing wholesale electricity markets

¹⁴ Since 1 February 2020, the UK has withdrawn from the EU and has become a third country. During the transition period, which ended on 31 December 2020, the EU and the UK negotiated a Trade and Cooperation Agreement, which applies provisionally since 1 January 2021. See Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part (OJ L 444, 31.12.2020, p. 14–1462). (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2020.444.01.0014.01.ENG).

¹⁵ See European Commission Notice to Stakeholders – Withdrawal of the United Kingdom and EU Rules in the Field of the Internal Energy Market: *Since 1 January 2021, system operation regions no longer cover the United Kingdom*. (https://ec.europa.eu/info/sites/info/files/notice-to-stakeholders-brexite-energy-market_en.pdf)

¹⁶ Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community OJ L 29, 31.1.2020, p. 7–187 (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02020W/TXT-20201218&from=EN>).

listed in Annex 4 to the Protocol shall apply, under the conditions set out in that Annex, to and in the UK in respect of Northern Ireland. In this light, references to SONI in the Proposal were kept^{17,18}.

- (77) By virtue of the UK's withdrawal from the EU, the IU and Channel CCRs and bidding zones cease to exist¹⁹. Since the SOR "*shall cover at least one capacity calculation region*", the requirement of the second sentence of Article 36(1) of the Electricity Regulation would not be met if an IU SOR were to be defined without covering at least one CCR. ACER therefore deleted the IU SOR in its entirety and all references to it in this Decision.
- (78) In accordance with Article 36(1) of the Electricity Regulation, in order to take into account the grid topology, degree of interconnection and interdependency of the electricity system in terms of flows, the Proposal placed GB and IE/NI SAs in the IU SOR. However, with the withdrawal of the UK from the EU, the coordination needed between the EU and the UK will be one between the EU and a third country, and therefore, reference to GB bidding zone was deleted from the Proposal. Equally, the bidding zone SEM was also deleted from the Proposal, since IU and Channel CCRs cease to exist following the withdrawal of the UK from the EU. Article 3(4) of the Proposal as revised by ACER anticipates that in case of amendments to the Determination of CCRs²⁰ and until such amendments are incorporated in the definition of SOR, the list of bidding zones, bidding zone borders and TSOs in SORs shall be understood as reflecting the changes to the Determination of CCRs, without prejudice to the relevant TSOs' right under Article 36(4) of Regulation 2019/943 to submit a proposal to ACER for amendments – ACER made changes to Article 3(4) to clarify this.
- (79) With the withdrawal of the UK from the EU leading to the deletion of the IU SOR from the Proposal, it is ever so important that Ireland becomes interconnected with

¹⁷ Since the end of the transition period, the Protocol on Ireland/Northern Ireland, included in the Withdrawal Agreement, applies. See Article 185 of the Withdrawal Agreement and Article 9 and Annex 4 of the Protocol on Ireland/Northern Ireland. See also Article 6(1) of the Withdrawal Agreement concerning the amendment or replacement of the EU legal acts listed in Annex 4.

¹⁸ See European Commission Notice to Stakeholders – Withdrawal of the United Kingdom and EU Rules in the Field of the Internal Energy Market: "*The IE/NI Protocol makes certain provisions of EU law applicable also to and in the United Kingdom in respect of Northern Ireland. In the IE/NI Protocol, the EU and the United Kingdom have furthermore agreed that insofar as EU rules apply to and in the United Kingdom in respect of Northern Ireland, Northern Ireland is treated as if it were a Member State.*"

¹⁹ See ACER Decision No 4/2021

²⁰ Pursuant to Article 15 of the CACM Regulation.

continental Europe to facilitate the market integration as well as ensure the efficient and secure operation of electricity systems across the Union²¹.

- (80) In accordance with Recital (53) of the Electricity Regulation, the definition of SOR must be efficient and take into account existing or planned regional coordination initiatives and should support the increasingly integrated operation of electricity systems across the Union. Bearing in mind that EirGrid, has been participating in RSC Coreso since 2017²², and that the Celtic interconnector between Ireland and France is due to be completed in 2026²³ (creating a new bidding zone border between the island of Ireland and continental Europe), and given the necessary deletion of the IU SOR from the Proposal, ACER considers that it is justified that EirGrid is placed in the CE SOR. In the same light, given that SONI has also been participating in RSC Coreso since 2017²⁴, and in accordance with the IE/NI Protocol, references in the Proposal to SONI were also added to the CE SOR. However, given that the Celtic interconnector is not yet operational, ACER added a paragraph to the Proposal detailing that the TSOs' obligations pertaining to the RCCs' tasks shall become effective only upon the start of operation (energisation) of the Celtic Interconnector.
- (81) In accordance with Recital (54) of the Electricity Regulation, the geographical scope of regional coordination centres should allow them to contribute effectively to the coordination of the operations of transmission system operators across regions and should lead to enhanced system security and market efficiency. It is therefore important to ensure that Ireland remains interconnected and in close coordination with the Internal Energy Market through its participation in the CE SOR.
- (82) The Proposal fulfilled the criteria of the first and second sentence of Article 36(2) of the Electricity Regulation, as each TSO of the IU SOR, whose control area is part of the same SA, would participate in only one RCC established in that region.

²¹ <https://www.cre.fr/en/News/celtic-obtains-an-eu-grant-on-par-with-the-stake>

²² EirGrid is a member and shareholder of Coreso RSC, which is deemed to become one of the two RCCs of the CE SOR.

²³ The Celtic interconnector is a Project of Common Interest for a planned undersea link (HVDC) to allow the exchange of electricity between Ireland and France (700 MW). The total length of the HVDC interconnector between the two countries would be about 575 km.

See https://ec.europa.eu/energy/sites/ener/files/documents/pci_factsheet_celtic_interconnector_2017_0.pdf and <http://www.eirgridgroup.com/site-files/library/EirGrid/Celtic-Interconnector-Project-PCI-Information-Brochure.pdf>.

²⁴ SONI is a member and shareholder of Coreso RSC, which is deemed to become one of the two RCCs of the CE SOR.

- (83) The Proposal partly fulfilled the requirements of the third sentence of Article 36(2) of the Electricity Regulation with regard to specifying how the coordination between RCCs is to take place for the bidding zone borders adjacent to SORs.
- (84) However, due to UK's withdrawal from the EU, as explained above, ACER deleted the IU SOR in its entirety and all references to it in this Decision, as well as all references to the GB SA and NG ESO. Following ACER's modifications to the definition of SOR in this regard, the requirements of Article 36(2) of the Electricity Regulation in relation to CE SOR are detailed in section 6.2.3.2.7.
- (85) For all the reasons stated above, ACER made changes to the Proposal to remove all references to IU SOR, GB SA and NG ESO and to place EirGrid and SONI in the CE SOR.

6.2.3.8. *SEE SOR*

- (86) In ACER's view, the Proposal fulfils the requirements of the first sentence of Article 36(1) of the Electricity Regulation in the sense that it specifies which TSOs, bidding zones, bidding zone borders, CCRs and outage coordination regions are covered by the SEE SOR. The Proposal contains in Article 3 a table with the aforementioned specifications.
- (87) The Proposal fulfils the requirements of the second sentence of Article 36(1) of the Electricity Regulation with regard to the requirement that the size of the SOR "*shall cover at least one capacity calculation region*", as the SEE SOR includes a complete list of the bidding zone borders of the concerned CCR.
- (88) As regards the second requirements of Article 36(1) of the Electricity Regulation, to take into account the "*grid topology, including the degree of interconnection and of interdependency of the electricity system in terms of flows*", ACER understands that the underlying grid for the SEE CCR bidding zone borders is part of CE SA and could thus in principle be rendered as part of CE SOR. However, according to the concerned TSOs during the interactions with ACER mentioned in paragraph (10), the flows in the concerned region are generally under adequate control. Also, the size of the SOR could hamper the efficient coordination by TSOs. Last but not least, the concerned TSOs had announced already the creation of a dedicated SEE RSC with a seat in Thessaloniki²⁵, which should be taken into account as per Recital (53) of the Electricity Regulation. For these reasons, ACER finds the geographical scope in terms of CCR borders as defined in the Proposal compliant with the second requirements of Article 36(1) of Electricity Regulation.
- (89) As regards the first and second sentence of Article 36(2) of the Electricity Regulation, the Proposal implies that the Greek TSO (IPTO) is to be placed in both SEE SOR and

²⁵ <https://www.entsoe.eu/news/2019/07/17/south-east-europe-tsos-agree-on-a-mou-for-establishing-a-regional-coordination-centre/> (now named SEleNe CC RSC).

GRIT SOR, which would require the Greek TSO to participate in the RCCs established for both SEE SOR and GRIT SOR although its control area is part of the same SA, namely the CE SA. The Proposal is therefore in total contradiction with Article 36(2) first and second sentence of the Electricity Regulation which imply that (i) as a main rule, TSOs of a SOR can only participate in the RCC established in that region and (ii) by way of derogation, a TSO can participate in two RCCs in only one exceptional situation, namely where the control area of a TSO is part of various SAs.

- (90) As it is explained in detail in paragraphs (123)-(138), ACER's amendments to the Proposal as regards the GRIT SOR imply its complete removal and an alternative CE SOR configuration. As a result, ACER's amendments entail that the Greek TSO will only be part of the SEE SOR (and the RCC established in that region); this configuration complies with the wording of the first and second sentence of Article 36(2) of the Electricity Regulation.
- (91) The Proposal partly fulfils the requirements of the third sentence Article 36(2) of the Electricity Regulation with regard to specifying how the coordination between RCCs is to take place for the bidding zone borders adjacent to SORs.
- (92) ENTSO-E proposes to use all given flexibility to coordinate all adjacent borders in the most efficient way and has outlined the criteria for the coordination of the adjacent borders to SORs as proposed. However, ACER found it necessary to amend Article 4 of the Proposal to clarify for which adjacent borders this is applicable and how the coordination would take place. This change was agreed to by ENTSO-E. More detail is provided below in section 6.2.3.12.
- (93) ENTSO-E proposes that the SEE SOR is established for the South East Europe region, excluding the Romanian TSO (Transelectrica) from participating in this SOR but including all the SEE CCR bidding zone borders (including Bulgaria-Romania (BG-RO) bidding zone border).
- (94) Further, ENTSO-E proposes the BG-RO bidding zone border as the adjacent bidding zone border to the SEE SOR and CE SOR for which a coordination, in accordance with the applicable terms, conditions and methodologies, shall be executed by the RCC established by the TSOs in the SEE SOR. This shall be ensured in cooperation with the Romanian TSO that shall have a contractual arrangement with the RCC established by the TSOs in the SEE SOR.
- (95) While one could ponder whether the interdependency in terms of flow for the BG-RO bidding zone border would require combining the SEE SOR with the CE SOR, ACER decided to follow the AEWG of 10 March 2020 advising to keep the SEE SOR as proposed by ENTSO-E "*considering different operational and organisational requirements in the SORs Central Europe (CE) and SEE and also the already announced setup of a regional security centre (RSC) in Thessaloniki. The Romanian TSO would be part of the SOR CE and establish cooperation with SOR SEE via contractual arrangements*".

- (96) As explained below in more detail regarding GRIT SOR, the Italian transmission system spans across two synchronous areas. Therefore, Terna's case is in line with the exceptional circumstances of Article 36(2), second sentence, and may participate in two regional coordination centres. As a result, ACER included Terna in the CE SOR and SEE SOR, confirming the integration of the bidding zone borders of the Italy North CCR in the CE SOR and placing the bidding zone borders of the GRIT CCR in the SEE SOR.
- (97) Provided that the amendments described above are integrated in the Proposal, ACER considers the proposed SEE SOR is in line with the cumulative criteria of Article 36(1) and Article 36(2) of the Electricity Regulation.

6.2.3.9. SWE SOR

- *The SWE SOR proposed by ENTSO-E*
- (98) The proposed SWE SOR consists of: the TSOs RTE, REE, and REN; the French, Spanish and Portuguese bidding zones; and all the bidding zone borders included in the SWE CCR.
- *Assessment of the Proposal under Article 36(1) and Article 36(2) of the Electricity Regulation*
- (99) In ACER's view, the Proposal fulfils the requirements of the first sentence of Article 36(1) of the Electricity Regulation in the sense that it specifies which TSOs, bidding zones, bidding zone borders, CCRs and outage coordination regions are covered by the SWE SOR. The Proposal contains in Article 3 a table with the aforementioned specifications.
- (100) The Proposal fulfils the requirements of the second sentence of Article 36(1) of the Electricity Regulation with regard to the requirement that the size of the SOR "*shall cover at least one capacity calculation region*", as the SWE SOR includes a complete list of the bidding zone borders of the concerned CCR.
- (101) Neither the Proposal nor its Explanatory document²⁶ justify how the requirements of the second sentence of Article 36(1) of the Electricity Regulation with regard to the grid topology, including the degree of interconnection and of interdependency of the electricity system in terms of flows were taken into consideration by ENTSO-E. However, ACER considers that there are requirements of the second sentence of Article 36(1) of the Electricity Regulation that, if taken correctly into account, render the Proposal disputable, as explained in detail in the section below.

²⁶ https://www.acer.europa.eu/en/Electricity/CLEAN_ENERGY_PACKAGE/Documents/Explanatory%20Document%20for%20SOR_200106_for%20ACER%20submission.pdf

- (102) Moreover, since the Proposal implies that the French TSO is to be placed in both the CE SOR and the SWE SOR, this would require the French TSO to participate in the RCCs established for both the CE SOR and the SWE SOR, although its control area is part of the same SA, namely the CE SA. As such, the proposed SWE SOR configuration is in total contradiction with the first and second sentence of Article 36(2) of the Electricity Regulation which imply that (i) as a main rule, TSOs of a SOR can only participate in the RCC established in that region and (ii) by way of derogation, a TSO can participate in two RCCs in only one exceptional situation, namely where the control area of a TSO is part of various SAs.
- (103) Therefore, since (i) the legal text of Article 36(2) of the Electricity Regulation is sufficiently clear and unambiguous so that the preamble of the Electricity Regulation cannot be relied upon as a ground for derogating from the actual provisions in question, and since (ii) exceptions to general rules are to be interpreted strictly so that no other exceptions are permitted under Article 36(2) of the Electricity Regulation as regards the belonging of a TSO to two RCCs, the proposed SWE SOR is contrary to the legal requirements of Article 36(2) of the Electricity Regulation.
- (104) Therefore, ACER considers that the proposed SWE SOR is not in line with the cumulative criteria of Article 36(1) and Article 36(2) of the Electricity Regulation and that amendments to the Proposal need to be introduced in order to fulfil these requirements, as described in detail in the section below.
- *Amendments to the Proposal in accordance with Article 36(1) and Article 36(2) of the Electricity Regulation*
- (105) Having regard to the issues mentioned above which result in the SWE SOR definition, as proposed, not being in line with the cumulative criteria of Article 36(1) and Article 36(2) of the Electricity Regulation, ACER considers it necessary to include the TSOs of the Iberian Peninsula and the France-Spain and Portugal-Spain bidding zone borders in an alternative CE SOR.
- (106) As regards the legal requirements under Article 36(1) of the Electricity Regulation, the situation currently in place is that REE, the Spanish TSO, REN, the Portuguese TSO and RTE, the French TSO, jointly participate (along with some other TSOs of the CE SA) in the RSC Coreso (which is deemed to become one of the two RCCs of the CE SOR). It is also worth noting that in the course of the proceedings towards the drafting of this Decision, TSOs of the proposed SWE region have expressed their intention to continue to be covered by Coreso RCC, once established. Therefore, ACER considers this to be also a pragmatic, cost-efficient and proportionate solution.
- (107) During the many exchanges with ENTSO-E (listed in sections 2 and 5.2 above), ENTSO-E justified its proposal regarding SWE SOR by claiming the lack of interdependency between flows in BZ border FR-ES with the rest of French BZ borders, as well as by claiming the peninsular character of Iberian system with few

synchronous link(s) compared to the total capacity²⁷; however, ENTSO-E remained silent on parameters (e.g. coordination of remedial actions to ensure a n-1 secure transmission system) that can be used to determine the interdependency of the electricity system in terms of flows. Given that the HVDC interconnector between France and Spain is currently operated in AC emulation (as e.g. reflected by common grid models, which describe this HVDC interconnector as an AC line), ACER considers that all ES-FR interconnectors currently behave as synchronous links, no matter whether they were built as AC or DC links.

- (108) However, ENTSO-E acknowledged in its Explanatory document that the French grid is strongly influenced by commercial exchanges with Spain and that this influence will increase with the coming development of new interconnections and will be spread as far as centre of France²⁸. ENTSO-E stated that developing new interconnections will increase flows and mutual influences in the future, requiring consistent coordination between the CE SOR and SWE SOR.²⁹ ENTSO-E acknowledges that countertrading, frequently used on the ES-FR border as a means to secure and maximise cross-border capacities, requires the identification of the most economically efficient resources in the whole bidding zone; with this in mind, the Proposal integrated the bidding zone “France” in both adjacent SORs, the CE SOR and the SWE SOR, in order to allow a *“better coordination of countertrading and redispatching resources within the bidding zone between the different French borders in close cooperation with RTE”*³⁰. ENTSO-E also stated that *“it is necessary to ensure a holistic approach of the coordinated processes to ensure operational security of the whole bidding zone France”*³¹. This solution, however, does not fall within the limits of Article 36 of the Electricity Regulation, and legal compliance can only be achieved if the SWE SOR is merged with the CE SOR or if RTE is a member of only one SOR, either the SWE SOR or the CE SOR. However, if RTE were to be solely member of the SWE SOR, this would represent an obstacle for achieving the holistic approach of the coordinated processes to ensure operational security of the whole bidding zone “France”, which also has bidding zone borders with other bidding zones belonging to the CE SA,³² i.e. Belgium, Germany and Italy. These other bidding zone borders also belong to other CCRs (the Core CCR for the borders with Belgium and Germany, and the Italy North CCR for the border with Italy).
- (109) According to ACER’s calculations based on representative common grid models as described under Annex IV, a significant number of remedial actions located in France can efficiently address congestions both in the Italy North CCR and in the SWE CCR. Specifically, almost half of all generators (connected at the 380 kV voltage level) in

²⁷ Section 7 of the Explanatory Document.

²⁸ ENTSO-E Position paper, page 9.

²⁹ ENTSO-E Position Paper, page 9.

³⁰ Section 7 of the Explanatory Document.

³¹ Section 7 of the Explanatory Document.

³² As explained above, the SA is the starting point to assess the scope of the region.

France have a simultaneous significant impact (i.e. more than 5%)³³ on at least one critical network element with contingency located in either region. This means that almost half of generators in France are needed to address physical congestions in both CCRs. In accordance with the CSAM, the TSOs are required to carry out a coordinated cross-regional operational security assessment. This assessment is comprised of a common cross-regional coordination process, for the coordination of remedial actions, involving TSOs and RSCs of all impacting CCRs. In the face of such interdependencies of remedial actions between the two CCRs, ACER believes that TSOs can more efficiently achieve the coordination, and enhance the system security, if the two CCRs are placed in one SOR, i.e. the CE SOR.

- (110) In ENTSO-E's hearing submission of 25 March 2021, ENTSO-E presented calculations based on the zone-to-zone PTDF (power transfer distribution factors) method in order to provide an indication on the degree of interdependency between the SWE CCR and the North Italy CCR. ENTSO-E argued that there is minimal interdependency between FR-North Italy and the ES-FR interconnection.
- (111) ACER accepts the validity of ENTSO-E's abovementioned calculations submitted during the hearing phase and which shed light on possible aspects of interdependency on the basis of calculated zone-to-zone PTDF values. However, ACER stresses that there are multiple ways to calculate and demonstrate interdependency in terms of flows and none is prescribed in the Electricity Regulation; indeed, there is no indication in the Electricity Regulation on how the assessment of interdependency in terms of flows should be made. Therefore, while ACER accepts that the calculations submitted by ENTSO-E are valid and merit consideration, ACER also has to consider the conclusions obtained from its own calculations, included in Annex IV and explained in this subsection.
- (112) Further, ENTSO-E's Proposal fails to take into account the temporary nature of definitions of CCRs. At present, the Core, Italy North and SWE CCRs are each determined as a separate CCR for the purpose of easier and faster implementation of capacity calculation methodologies. But this does not mean that these three regions are not interdependent in terms of electricity exchanges and physical flows they create. Such interdependence is strongly present, but is momentarily disregarded in order to achieve step-by-step implementation of coordinated capacity calculation. In particular, the calculation of cross-zonal capacities in the SWE region does not depend only on the cross-zonal exchanges between France, Spain and Portugal, but also on cross-zonal exchanges in the Core and Italy North CCRs. As demonstrated in the following paragraph, the physical congestions caused by electricity exchanges on the SWE bidding zone borders are also heavily impacted by electricity exchanges on bidding zone borders in the Italy North CCR and the Core CCR.

³³ In accordance with CSAM, a remedial action is deemed to have a significant cross-border impact if its remedial action influence factor is higher than 5%.

- (113) One particular example is that the volume and location of physical congestions resulting from cross-zonal electricity exchange from e.g. France to Spain will crucially depend on where the electricity from such exchange is produced and where it is consumed. Electricity from such exchange can be produced in France or any other country that France imports from (e.g. Italy, Germany, Belgium or other countries) and consumed in Spain or any other country that Spain exports to. In congestion management, it is a well-known fact that physical congestions do not depend on the specific cross-zonal exchange on a specific border, but rather on a set of net positions that reflect the sum of all cross-zonal exchanges on all the borders. Therefore, the volume and the location of physical congestion resulting from cross-zonal exchange from France to Spain will heavily depend on the origin of export and import and this can only be properly calculated if cross-zonal capacities on the SWE CCR borders are calculated and allocated in a fully coordinated way with the Core and Italy North CCRs' borders.³⁴ The determination of the SOR should take into account such strong interdependence to ensure efficient use of electricity infrastructure.
- (114) Finally, with the establishment of binding interconnection targets³⁵, the Iberian Peninsula is expected to become more and more interconnected, and therefore more and more interdependent with Continental Europe, which reinforces the need to include this sub-region into the CE SOR.
- (115) In its hearing submission of 25 March 2021, ENTSO-E also emphasised that “*ACER and ENTSO-E both agree that RTE shall be in the same SOR as SWE and in the same SOR as Italy North and Core.*”
- (116) For these reasons, ACER considers it necessary to amend the Proposal by defining an alternative CE SOR configuration in this regard, i.e. inclusive of the TSOs in the Iberian Peninsula and of the France-Spain and Portugal-Spain bidding zone borders, in order to comply with the requirements of Article 36(1) of the Electricity Regulation.

³⁴ The fact that it is not done so today only means that efficiency of capacity calculation needs to be further improved by merging of interdependent regions.

³⁵ The Clean Energy Package has set new binding climate and energy targets for 2030, including guaranteeing at least 15% electricity inter-connection levels between neighbouring Member States: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R1999&from=EN>

As stated in the Fourth Report State of the Energy Union, April 2019: “A key priority of the Energy Union has been to end the energy isolation of disconnected regions.(...) Greater integration of the Iberian peninsula is also being promoted by the support by the European Commission for the INELFE project and for a power line crossing the Bay of Biscay. These efforts will double the exchange capacity between France and Spain by 2025, bringing Spain closer to the 10 % interconnection target, and progressively integrating the whole Iberian Peninsula into the internal electricity market.”

Cf. also, e.g., Article 194(1)(d) of the Treaty on the Functioning of the European Union, and Recitals (6) and (28) of Regulation (EU) 2019/942.

- (117) With the alternative CE SOR as defined in this Decision, each TSO of the CE SOR, whose control area is part of the same CE SA, would participate in only one of the RCCs established in that region; for this reason, the amendments to the Proposal and the alternative CE SOR configuration are therefore compliant with the legal requirements of Article 36(2) of the Electricity Regulation.
- (118) In its hearing submission of 25 March 2021, ENTSO-E raised concerns regarding system security and market efficiency by merging SWE SOR with Central SOR, as well as that *“it will be inefficient, disproportionate and unnecessary for the SWE TSOs to be required to adapt to the more complex cooperative processes required for the rest of Central SOR, and at the same time they would still need to cover their technical specificities, which can be more efficiently done by a modular regional-CCR solution.”* ACER notes that its amendments to the Proposal with regard to the Iberian Peninsula are indeed necessary to ensure the correct application of the cumulative criteria of Article 36(1) and (2); also, these amendments are efficient and proportionate since the Electricity Regulation ensures that sub-regional specificities are efficiently and proportionally addressed by application of Article 44 of the Electricity Regulation.
- (119) Indeed, ACER notes that the alternative CE SOR as defined in this Decision allows TSOs in the CE SOR to fully take into account the sub-regional specificities of the Iberian Peninsula through the possible establishment of a regional desk in accordance with Article 44 of the Electricity Regulation. In accordance with the same article, TSOs of a SOR shall establish the organisational structure of RCCs that supports the safety of their tasks.
- (120) Finally, another viable option, in accordance with Article 36(2) of the Electricity Regulation, is for the TSOs in the CE SA to decide, where the activities of two RCCs do not overlap in a SOR, to designate a single RCC in that sub-region to carry out some or all of the tasks of sub-regional relevance. ACER has amended the Proposal to include a recital to emphasise that TSOs of an SOR shall establish a flexible RCC organisational structure that allows for regional desks to tackle sub-regional specificities, where relevant.
- (121) As to the impact on governance requirements, to be defined according to Article 35 of the Electricity Regulation, ACER understands that the alternative CE SOR configuration allows for a more holistic, but not necessarily more complex arrangements. While there is a larger set of TSOs in CE SOR, where there are no overlaps, regional specificities, for example defined at the CCR level, are still able to be carried out as today without substantial changes in governance and impact on the rest of the CE SOR. This is supported by the fact that TSOs of the proposed SWE region have expressed their intention to continue to be covered by Coreso RCC, once established. In order to put the complexities of establishing such governance arrangements into perspective it is worth mentioning at this point that Coreso RSC has been growing steadily in terms of its geographical scope for the past ten years, with the latest additions of the TSOs of the IE/Ni SA in 2017. Last but not least, concerning the flexibilities in governance, the common rules for the new RCCs’ tasks listed in Article 37(1) of the Regulation will be developed by ENTSO-E in accordance

with Article 37(5) of the Regulation and in turn applied by RCCs taking into account flexibilities provided in Article 37(1) and Annex I of the Regulation. For example, RCCs shall support the coordination and optimisation of regional restoration (only) as per the request by TSOs. To ACER's understanding, there have been no issues so far with regard to SWE in the planning for the timely establishment of the RCCs in CE SOR.

- (122) In the light of the foregoing, ACER's amendments to the Proposal and the alternative CE SOR configuration are in line with the cumulative criteria of Article 36(1) and Article 36(2) of the Electricity Regulation.

6.2.3.10. GRIT SOR

- *The GRIT SOR proposed by ENTSO-E*

- (123) The proposed GRIT SOR consists of: the TSOs Terna and IPTO; the IT NORD, IT CNOR, IT CSUD, IT SUD, IT SICI, IT SARD, and IT ROSN bidding zones; and all the bidding zone borders included in the GRIT CCR.

- *Assessment of the Proposal under Article 36(1) and Article 36(2) of the Electricity Regulation*

- (124) In ACER's view, the Proposal fulfils the requirements of the first sentence of Article 36(1) of the Electricity Regulation in the sense that it specifies which TSOs, bidding zones, bidding zone borders, CCRs and outage coordination regions are covered by the GRIT SOR. The Proposal contains in Article 3 a table with the aforementioned specifications.

- (125) The Proposal fulfils the requirements of the second sentence of Article 36(1) of the Electricity Regulation with regard to the requirement that the size of the SOR "*shall cover at least one capacity calculation region*", as the GRIT SOR includes a complete list of the bidding zone borders of the concerned CCR.

- (126) Neither the Proposal nor its Explanatory document justify how the requirements of Article 36(1), second sentence of the Electricity Regulation with regard to the grid topology, including the degree of interconnection and of interdependency of the electricity system in terms of flows were taken into consideration by ENTSO-E. However, ACER considers that requirements of the second sentence of Article 36(1) of the Electricity Regulation, if taken correctly into account, render the Proposal disputable, as explained in detail in the section below.

- (127) The Proposal implies that the Greek TSO (IPTO) is to be placed in both SEE SOR and GRIT SOR, which would require the Greek TSO to participate in the RCCs established for both SEE SOR and GRIT SOR although its control area is part of the same SA, namely the CE SA. The proposed GRIT SOR configuration is therefore in total contradiction with Article 36(2) first and second sentence of the Electricity Regulation which imply that (i) as a main rule, TSOs of a SOR can only participate in the RCC established in that region and (ii) by way of derogation, a TSO can participate

in two RCCs in only one exceptional situation, namely where the control area of a TSO is part of various SAs.

- (128) In its hearing submission of 25 March 2021, ENTSO-E explained that the Italian transmission system is characterised by its peninsular and insular grid with multiple bidding zones spanning over two synchronous areas: the Sardinia island and the remainder of Italy (including Sicily island), which is part of the Continental Europe synchronous area. Spanning across two synchronous areas, the case of the Italian TSO (Terna) satisfies the exceptional circumstances of Article 36(2), second sentence, and therefore may participate in two regional coordination centres.
- (129) However, the Proposal implies that Terna is to be placed in both CE SOR and GRIT SOR, which would require the Italian TSO to participate in the RCCs established for CE SOR and the one that would be established for GRIT SOR. As described in more detail below, ACER believes that the creation of a separate GRIT SOR would not be justified; also, taking into consideration Terna's participation in "existing or planned regional coordination initiatives" in accordance with Recital (53) of the Electricity Regulation, Terna participates in the recently established SEleNe RSC, which is an existing regional coordination initiative. It is reasonable to expect that Terna would continue to participate in SEleNe after it is established as an RCC and not potentially in a completely new RCC established in GRIT SOR in accordance with Article 35 of the Regulation.
- (130) Moreover, the creation of a GRIT SOR implies that the Greek TSO is to be placed in both SEE SOR and GRIT SOR, which would require the Greek TSO to participate in the RCCs established for SEE SOR and the one that would be established for GRIT SOR, which is contrary to the provisions of Article 36(2) of the Electricity Regulation since its control area is not in two synchronous areas.
- (131) Therefore, ACER considers that the proposed GRIT SOR is not in line with the cumulative criteria of Article 36(1) and Article 36(2) of the Electricity Regulation and that amendments to the Proposal need to be introduced in order to fulfil these requirements, as described in detail in the section below.
- *Amendments to the Proposal in accordance with Article 36(1) and Article 36(2) of the Electricity Regulation*
- (132) In its hearing submission of 25 March 2021, ENTSO-E explained that the Italian TSO's control area (as defined in the Electricity Regulation), "*spreads across two synchronous areas, i.e. the Sardinia island and the remainder of Italy (including Sicily island), which is part of the Continental Europe synchronous area.*" ENTSO-E also emphasised the analogous nature of GRIT region's characteristics to the exceptional circumstances indicated in Article 36(2).
- (133) Regarding the legal requirements under the second sentence of Article 36(1), namely the assessment of the grid topology, including the degree of interconnection and of interdependency in terms of flows, it is important to highlight that the GRIT CCR contains the Sardinia SA, which is connected via two HVDCs to the Continental

Europe synchronous area (Italy Middle North and Italy Middle South). There are direct current flows inside the GRIT CCR, which contains the whole synchronous area of Sardinia, and which are treated differently than the Continental Europe synchronous area.

- (134) As regards the legal requirements under Article 36(2) of the Electricity Regulation, the Italian transmission system spans over two synchronous areas: the Sardinia Island and the remainder of Italy which is part of the Continental Europe synchronous area. Spanning across two synchronous areas, Terna's case is in line with the exceptional circumstances of Article 36(2), second sentence, and therefore may participate in two regional coordination centres.
- (135) For the reasons above, ACER included Terna in the CE SOR and SEE SOR, confirming the integration of the bidding zone borders of the Italy North CCR in the CE SOR and placing the bidding zone borders of the GRIT CCR in the SEE SOR. Also, Terna is placed in the CE SOR and in the SEE SOR.
- (136) It is important to highlight, as stated above in paragraph (135), that the changes made by ACER in this regard are completely in line and compatible with the situation already in place today as the Italian TSO currently participates in the RSC Coreso and RSC SEleNe³⁶. Therefore, ACER considers the interface to be also a pragmatic, cost-efficient and proportionate solution.
- (137) Finally, as regards the Greek TSO, it is referred to paragraphs (86)-(97) concerning the assessment of the SEE SOR which already includes IPTO as one of the TSOs of that region and is approved by ACER, provided the amendments related to the SEE SOR are integrated in the Proposal. As explained above, ACER's amendments regarding the GRIT SOR imply its complete removal and an alternative CE SOR configuration. As a result, ACER's amendments entail that the Greek TSO will only be part of the SEE SOR (and the RCC established in that region); this configuration complies with the wording of the first and second sentence of Article 36(2) of the Electricity Regulation.
- (138) In the light of the foregoing and as will be explained below, ACER's amendments to the Proposal and the alternative CE SOR configuration are in line with the cumulative criteria of Article 36(1) and Article 36(2) of the Electricity Regulation.

6.2.3.11. CE SOR

- (139) The proposed CE SOR consists of the following TSOs: RTE, ELIA, TenneT NL, Amprion, TransnetBW, TenneT DE, 50Hertz, Creos, PSE, ČEPS, APG, VUEN,

³⁶ ARERA, the Italian NRA, approved the appointment of SEleNe CC as the RSC for the GRIT CCR on 1 July 2020.

MAVIR, ELES, SEPS, HOPS, Transelectrica, and TERNA; and all the bidding zone borders included in the Core CCR and Italy North CCR.

- (140) In ACER's view, the Proposal fulfils the requirements of the first sentence of Article 36(1) of the Electricity Regulation in the sense that it specifies which TSOs, bidding zones, bidding zone borders, CCRs and outage coordination regions are covered by the CE SOR. The Proposal contains in Article 3 a table with the aforementioned specifications.
- (141) The Proposal fulfils the requirements of Article 36(1), second sentence of the Electricity Regulation with regard to the requirement that the size of the SOR "*shall cover at least one capacity calculation region*". as the CE SOR includes a complete list of the bidding zone borders of the concerned CCRs.
- (142) Neither the Proposal nor its Explanatory document justify how the requirements of Article 36(1), second sentence of the Electricity Regulation with regard to the grid topology, including the degree of interconnection and of interdependency of the electricity system in terms of flows were taken into consideration by ENTSO-E.
- (143) Having regard to the amendments made by ACER with respect to the SWE SOR and the GRIT SOR, an alternative CE SOR configuration is defined by ACER which includes the Spanish and Portuguese TSOs and bidding zones as well as the Italy North CCR and the SWE CCR borders. As demonstrated above, this alternative CE SOR is compliant with the legal requirements of Article 36(1) of the Electricity Regulation.
- (144) As explained above in section 6.2.3.2.3, having regard to the deletion by ACER of the IU SOR, ACER placed EirGrid and SONI in the CE SOR; given that the Celtic interconnector is not yet operational, ACER added a paragraph to the Proposal detailing that these TSOs' obligations pertaining to the RCCs' tasks shall become effective only upon the start of operation of the Celtic Interconnector.
- (145) With the alternative CE SOR as defined in this Decision, each TSO of the CE SOR, whose control area is part of the same CE SA, would participate in only one of the RCCs established in that region; for this reason, the amendments to the Proposal and the alternative CE SOR configuration are therefore compliant with the legal requirements of Article 36(2) of the Electricity Regulation.
- (146) In the light of the foregoing, ACER's amendments to the Proposal and the alternative CE SOR configuration are in line with the cumulative criteria of Article 36(1) and Article 36(2) of the Electricity Regulation.

6.2.3.12. Other amendments necessary to ensure legal clarity and consistency with existing legal provisions

- (147) In light of the above considerations, ACER made a number of amendments to the Proposal.

- (148) ACER made changes to the ‘Whereas’ section of the Proposal to clarify the purpose and scope of the document and removed references to Article 35 of the Electricity Regulation, as it is out of scope of the Proposal. ENTSO-E agreed with the changes made in this regard.
- (149) ACER removed references to third countries from the ‘Whereas’ section as these are out of scope of this Decision. Nevertheless, ACER included Recital (7) in the ‘Whereas’ section to highlight the importance of third countries for secure system operation inside all SAs across the Union. ENTSO-E agreed with the changes made in this regard.
- (150) ACER made minor editorial changes to the ‘Whereas’ section for consistency with the wording of the Electricity Regulation, as well as with the wording of the Articles for the SOR definition, as revised. ENTSO-E agreed with the changes made in this regard.
- (151) ACER made minor editorial changes to Article 1 to clarify the purpose and scope of the Proposal. ENTSO-E agreed with the changes made in this regard.
- (152) In ACER’s view, Article 2 of the Proposal fell short of all acronyms necessary for the understanding of the Proposal; ACER made the necessary changes for clarity. ENTSO-E agreed with the changes made in this regard.
- (153) ACER made changes to Article 3(1) of the Proposal to clarify which TSOs have to be part of SORs and fulfil the obligations stemming from the present Decision. Only TSOs that have been designated or assigned with responsibilities relevant for system operation will be included in SORs. These responsibilities are for example: calculation of capacity, assessment of needed remedial actions to ensure security of the whole system, coordination of all the outages to ensure security and efficiency, adequacy assessment and tasks related to the provision of system balancing. ENTSO-E agreed with the changes made in this regard.
- (154) Since at national level Member States or regulatory authorities can assign or designate TSOs with responsibilities for system operation, ACER included a new paragraph (2) in Article 3. This paragraph specifies that the list of TSOs in SORs is without prejudice to the Member States’ ability to designate or assign, or the regulatory authorities’ ability to assign, one or several responsibilities to other TSOs in accordance with the Electricity Directive³⁷. ENTSO-E agreed with the changes made in this regard.
- (155) ACER made changes to paragraph (3) of Article 3 to clarify and strengthen the requirement for consultation with the TSOs which are part of the CCR and which have not been included in the SOR. ACER deems the reinforcement of the requirement for consultation necessary to preserve a minimum of level-playing field in the decisions

³⁷ 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, OJ L 158, 14.6.2019, p. 125–199

taken at SOR level, which could impact neighbouring TSOs not included in the SOR. ENTSO-E agreed with these changes.

- (156) ACER made changes to Articles 3 and 4 to define the CE SOR as detailed above in section 6.2.4, as well as introduced more details regarding coordination aspects. Changes in this regard reflect the advice received from the AEWG.
- (157) The CE SOR, as defined by ACER as per AEWG's advice of 10 March 2020, ensure that there is adequate support for the increasingly integrated operation of electricity systems across the Union.
- (158) Furthermore, the geographical scope of RCCs, as per Recital (54) of the Electricity Regulation, should allow them to contribute effectively to the coordination of the operation of TSOs across regions. As per the same recital, RCCs should have the "flexibility to carry out their tasks in the way which is best adapted to the nature of individual tasks entrusted to them", which ACER does not dispute nor preclude with this definition of SORs.
- (159) ACER believes that its amendments to the Proposal have a limited impact on the implementation timeline and costs. ACER anticipates governance requirements, to be defined according to Article 35 of the Electricity Regulation, to be covered in a more holistic, but not necessarily more complex manner. While there is a larger set of TSOs in one region, where there are no overlaps, regional specificities are still able to be planned and carried out as today without substantial changes.
- (160) Moreover, the Electricity Regulation offers viable options (as detailed in paragraph (10)) to address the possible complexities of having a larger SOR: sub-regional specificities could be addressed through the possible establishment of a regional desk in accordance with Article 44 of the Electricity Regulation, or, in accordance with Article 36(2) of the Electricity Regulation, the TSOs of the CE SA can decide, where the activities of two RCCs do not overlap in a SOR, to designate a single RCC in that region to carry out some or all of the tasks of regional relevance.
- (161) ACER included detailed provisions in Articles 3 and 4 on how the coordination between RCCs for bidding zone borders adjacent to SORs is to take place. These changes were discussed and agreed with ENTSO-E and then further developed for consistency following AEWG's advice of 10 March 2020.
- (162) ACER made changes to Articles 3 and 4 to include Terna in the CE SOR and SEE SOR, confirming the integration of the bidding zone borders of the Italy North CCR in the CE SOR and placing the bidding zone borders of the GRIT CCR in the SEE SOR. The Italian TSO is placed in the CE SOR and in the SEE SOR and the Greek TSO will only be part of the SEE SOR, as explained in detail above in section 6.2.3.2.4.
- (163) ACER emphasises that the Proposal concerns EU Member States, as RCCs will encompass Union TSOs only and as it is provided for by the Electricity Regulation. Therefore, any references in the Proposal to non-EU TSOs were deleted. Specifically,

the references to Swiss borders and to the Swiss TSO in the initial Article 4(7)(3) of the Proposal were deleted. Similarly, the references to the GB TSOs and borders contained in the Proposal were deleted.

- (164) ACER acknowledges that, as emphasised in Recital (15) of the SO Regulation, SAs do not stop at the Union's borders and can include the territory of third countries. The Union, Member States and TSOs should aim for secure system operation inside all SAs across the Union. They should support third countries in applying similar rules to those contained in the SO Regulation. ENTSO-E should facilitate cooperation between Union TSOs and third country TSOs concerning secure system operation. Nevertheless, ACER emphasises that it is bound by the remit set out in Article 36 of the Electricity Regulation, as well as by Regulation (EU) 2019/942.
- (165) Recital (70) of the Electricity Regulation emphasises that “Member States, the Energy Community Contracting Parties and other third countries which apply this Regulation or are part of the synchronous area of Continental Europe should closely cooperate on all matters concerning the development of an integrated electricity trading region and should take no measures that endanger the further integration of electricity markets or security of supply of Member States and Contracting Parties.”
- (166) Indeed, ACER acknowledges the intention of the TSOs “to conclude with the third country TSOs not bound by the Regulation EU 2019/943 agreements setting the basis for their cooperation concerning secure system operation and setting out arrangements for the compliance of the third country TSOs with the obligations set in Regulation EU 2019/943”. For clarity, ACER moved paragraph (3) of Article 3 to Article 5 as this also constitutes an implementation task. ENTSO-E agreed with this change. With the revision of the Decision following the BoA Decision, ACER intended to revise the implementation timeline of Article 5 to six months. On 7 May 2021, ENTSO-E submitted via email a request for the extension of the Article 5 deadline to ten months after the decision is final. ENTSO-E stated that this extension would be necessary to ensure that all the needed arrangements in all the SORs are in place at the moment the deadline expires and that ENTSO-E would aim to finalise the work ahead of this schedule. Following this request and considering the advice from the AEWG, which endorsed also this extension, ACER changed the implementation timing to ten months in Article 5.
- (167) ACER removed Article 5(2) of the Proposal as it referred to the implementation of Article 38 of the Electricity Regulation, which is out of scope of the present Decision. ENTSO-E agreed with this change.
- (168) ACER made changes to the Proposal taking into account those future and market developments that are certain, namely regarding the inclusion of Energinet and both Danish bidding zones in the Nordic SOR. Nevertheless, ACER stresses that certain future developments that are not yet well defined or cannot be anticipated at the time of this Decision have not been accounted for; these will need to be addressed at a later stage by means of amendments to the definition of SORs once these future developments materialise, become certain or foreseeable, depending on an assessment

made on a ‘case-by-case’ basis. ENTSO-E agreed with the changes made in this regard.

- (169) ACER made changes to Article 3 to clarify that relevant TSOs shall be consulted when coordinated actions will be developed in accordance with Article 42 of the Electricity Regulation. ENTSO-E agreed with these changes.
- (170) ACER introduced a new paragraph (4) in Article 3 of the Proposal to address potential changes to the HANSA CCR and CORE CCR. ENTSO-E agreed with this change.
- (171) ACER amended Article 4 in order to specify how the coordination between RCCs is to take place in regards to the bidding zone border adjacent to Baltic SOR and CE SOR. ENTSO-E agreed with the changes made in this regard.
- (172) ACER clarified the outage coordination for HANSA CCR by adding a reference in Article 4(3) of the Proposal to the HANSA Regional Outage Coordination in accordance with Article 80 of the SO Regulation. ENTSO-E agreed with the changes made in this regard. Also, ACER added to Article 4 references to the common methodology for coordinated redispatching and countertrading and common methodology for redispatching and countertrading cost sharing, pursuant to Articles 35 and 74 of the CACM Regulation which were missing. ENTSO-E agreed with the changes made in this regard.

7. CONCLUSION

- (173) For all the above reasons, ACER considers the Proposal in line with the requirements of the Electricity Regulation, provided that the amendments described in this Decision are integrated in the Proposal, as presented in Annex I.
- (174) Therefore ACER approves the Proposal subject to the necessary amendments and to the necessary editorial amendments. To provide clarity, Annex I to this Decision sets out the Proposal as amended and approved by ACER,

HAS ADOPTED THIS DECISION:

Article 1

The definition of the system operation regions according to Article 36 of Regulation (EU) 2019/943 is adopted as set out in Annex I to this Decision.

Article 2

ACER’s Decision No 10/2020 of 6 April 2020 on the definition of system operation regions is repealed.

Article 3

This Decision is addressed to ENTSO-E.

Done at Ljubljana, on 29 June 2021.

- SIGNED -

*For the Agency
The Director*

C. ZINGLERSEN

Annexes:

Annex I – Definition of system operation regions in accordance with Article 36 of Regulation (EU) 2019/943 on the geographical scope of regional coordination centres

Annex Ia (for information only) – Track change version of Annex I compared to the Proposal

Annex II (for information only) – Evaluation of responses to the public consultation on the amendments of the proposal for system operation regions

Annex III (for information only) – List of third countries mentioned in the informative annexes as received from ENTSO-E

Annex IV (for information only) – Methodological description of the modelling analysis conducted by ACER

In accordance with Article 28 of Regulation (EU) 2019/942, the addressee may appeal against this Decision by filing an appeal, together with the statement of grounds, in writing at the Board of Appeal of ACER within two months of the day of notification of this Decision.

In accordance with Article 29 of Regulation (EU) 2019/942, the addressee may bring an action for the annulment before the Court of Justice only after the exhaustion of the appeal procedure referred to in Article 28 of that Regulation.