

# COMMISSION REGULATION (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation

Incorporated and adapted by the Ministerial Council Decision 2022/03/MC-EnC of 15 December 2022 on the incorporation of Regulation (EU) 2019/942, Regulation (EU) 2019/943, Regulation (EU) 2015/1222, Regulation (EU) 2016/1719, Regulation (EU) 2017/2195, Regulation (EU) 2017/2196, Regulation (EU) 2017/1485 in the Energy Community acquis, amending Annex I of the Energy Community Treaty, and on the amendments of the Ministerial Council Decisions No 2021/13/MC-EnC and No 2011/02/MC-EnC.

*The adaptations made by Ministerial Council Decision 2022/03/MC-EnC are highlighted in **bold and blue**.*

## TITLE I GENERAL PROVISIONS

### Article 1

#### Subject matter and scope

1. This Regulation lays down detailed rules on cross-zonal capacity allocation in the forward markets, on the establishment of a common methodology to determine long-term cross-zonal capacity, on the establishment of a single allocation platform <...> offering long-term transmission rights, and on the possibility to return long-term transmission rights for subsequent forward capacity allocation or transfer long-term transmission rights between market participants.
2. This Regulation shall apply to all transmission systems and interconnections in the **Energy Community**, except the transmission systems <...> which are not connected with other transmission systems via interconnectors.
3. In **Contracting Parties** where more than one TSO exists, this Regulation shall apply to all TSOs within that **Contracting Party**. Where a TSO does not have a function relevant to one or more obligations under this Regulation, **Contracting Parties** may provide that the responsibility for complying with those obligations is assigned to one or more different, specific TSOs.
4. <...>
5. <...>

### Article 2

#### Definitions

For the purposes of this Regulation, the definitions in Article 2 of Regulation (EC) No **2019/943 as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**, Article 2 of Regulation (EU) 2015/1222 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**, Article 2 of Commission Regulation (EU) No 543/2013 **as adapted and adopted by Ministerial Council**

**Decision 2015/01/MC-EnC** as well as Article 2 of Directive **(EU) 2019/944 as adapted and adopted by Ministerial Council Decision 2021/13/MC-EnC** shall apply.

In addition, the following definitions shall apply:

- (1) 'forward capacity allocation' means the attribution of long-term cross-zonal capacity through an auction before the day-ahead time frame;
- (2) 'long-term transmission right' means a physical transmission right or a FTR — option or a FTR — obligation acquired in the forward capacity allocation;
- (3) 'allocation rules' means the rules for forward capacity allocation applied by the single allocation platform;
- (4) '**regional** allocation platform' means the <...> platform established by **Article 48**;
- (5) 'auction' means the process by which long-term cross-zonal capacity is offered and allocated to market participants who submit bids;
- (6) 'UIOSI' means the principle according to which the underlying cross-zonal capacity of physical transmission rights purchased and non-nominated is automatically made available for day-ahead capacity allocation and according to which the holder of these physical transmission rights receives remuneration from the TSOs.
- (7) 'nomination' means the notification of the use of long-term cross-zonal capacity by a physical transmission rights holder and its counterparty, or an authorised third party, to the respective TSOs;
- (8) 'nomination rules' means the rules with regard to the notification of use of long-term cross-zonal capacity by a physical transmission rights holder and their counterparty, or an authorised third party, to the respective TSOs;
- (9) 'market spread' means the difference between the hourly day-ahead prices of the two concerned bidding zones for the respective market time unit in a specific direction;
- (10) 'compensation rules' means the rules according to which each TSO responsible for the bidding zone border, where long-term transmission rights have been allocated, compensates transmission right holders for curtailing the long-term transmission rights.

**(11) 'Member State' means a territory of the European Union referred to in Article 27 of the Treaty.**

### **Article 3**

#### **Objectives of forward capacity allocation**

This Regulation aims at:

- (a) promoting effective long-term cross-zonal trade with long-term cross-zonal hedging opportunities for market participants;
- (b) optimising the calculation and allocation of long-term cross-zonal capacity;
- (c) providing non-discriminatory access to long-term cross-zonal capacity;
- (d) ensuring fair and non-discriminatory treatment of TSOs, the Agency **for the Cooperation of Energy Regulators, the Energy Community Regulatory Board**, regulatory authorities and market participants;

- (e) respecting the need for a fair and orderly forward capacity allocation and orderly price formation;
- (f) ensuring and enhancing the transparency and reliability of information on forward capacity allocation;
- (g) contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector in the **Energy Community**.

#### **Article 4**

#### **Adoption of terms and conditions or methodologies**

1. **Where this Regulation requires** TSOs **to** develop the terms and conditions or methodologies **they shall** submit them for approval to the **Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators** or the competent regulatory authorities within the respective deadlines set out in this Regulation. <...> Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO, the participating TSOs shall closely cooperate. TSOs, with the assistance of the ENTSO for Electricity, shall regularly inform the competent regulatory authorities and the **Agency for the Cooperation of Energy Regulators and the Energy Community Regulatory Board** about the progress of the development of those terms and conditions or methodologies.

2. <...>

3. Where TSOs deciding on proposals for terms and conditions or methodologies listed in paragraph 7 are not able to reach an agreement and where regions concerned are composed of more than five **Contracting Parties and/or** Member States, they shall decide by qualified majority voting. A qualified majority for proposals in accordance with paragraph 7 shall require the following majority:

- (a) TSOs representing at least 72 % of the **Contracting Parties and/or** Member States concerned; and
- (b) TSOs representing **Contracting Parties and/or** Member States comprising at least 65 % of the population of the concerned region.

A blocking minority for decisions on proposals for terms and conditions or methodologies listed in paragraph 7 shall include at least the minimum number of TSOs representing more than 35 % of the population of the participating **Contracting Parties and/or** Member States, plus TSOs representing at least one additional **Contracting Party and/or** Member State concerned, failing of which the qualified majority shall be deemed attained.

TSOs deciding on proposals for terms and conditions or methodologies listed in paragraph 7 in relation to regions composed of five **Contracting Party and/or** Member States or less shall decide by consensus.

For TSO decisions on proposals for terms and conditions or methodologies listed in paragraph 7, one vote shall be attributed per **Contracting Party or** Member State. If there is more than one TSO in the territory of **a Contracting Party or** a Member State, **the Contracting Party or** the Member State shall allocate the voting powers among the TSOs.

4. If TSOs fail to submit an initial or amended proposal for terms and conditions or methodologies to the competent regulatory authorities or the **Agency for the Cooperation of Energy Regulators** in accordance with paragraph <...> 7 or 11 within the deadlines set out in this Regulation, they shall provide the competent regulatory authorities and the **Agency for the Cooperation of Energy Regulators and**

**the Energy Community Regulatory Board** with the relevant drafts of the proposals for the terms and conditions or methodologies, and explain what has prevented an agreement. The **Energy Regulatory Board and, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC** or all competent regulatory authorities jointly, shall take the appropriate steps for the adoption of the required terms and conditions or methodologies in accordance with paragraphs <...> 7 respectively, for instance by requesting amendments or revising and completing the drafts pursuant to this paragraph, including where no drafts have been submitted, and approve them.

5. Each regulatory authority or where applicable the **Energy Regulatory Board and, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC**, as the case may be, shall be responsible for approving the terms and conditions or methodologies referred to in paragraphs 6 and 7. Before approving the terms and conditions or methodologies, the **Energy Regulatory Board and, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC** or the competent regulatory authorities shall revise the proposals where necessary, after consulting the respective TSOs, in order to ensure that they are in line with the purpose of this Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

6. **TSOs shall apply the following terms and conditions or methodologies**, any amendments thereof shall be subject to approval by the Agency **for the Cooperation of Energy Regulators acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC**:

(a) the generation and load data provision methodology pursuant to Article 17**(1) of Regulation (EU) 2016/1719**;

(b) the common grid model methodology pursuant to Article 18**(1) of Regulation (EU) 2016/1719**;

(c) the requirements for the single allocation platform pursuant to Article 49 **of Regulation (EU) 2016/1719, subject to Article 48 paragraphs 4 or 6 of the present Regulation**

(d) the harmonised allocation rules pursuant to Article 51 **of Regulation (EU) 2016/1719**;

(e) the congestion income distribution methodology pursuant to Article 57 **of Regulation (EU) 2016/1719**;

(f) the methodology for sharing costs of establishing, developing and operating the single allocation platform pursuant to Article 59 **of Regulation (EU) 2016/1719, subject to Article 48 paragraphs 4 or 6 of the present Regulation**;

(g) the methodology for sharing costs incurred to ensure firmness and remuneration of long-term transmission rights pursuant to Article 61 **of Regulation (EU) 2016/1719**.

7. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by all regulatory authorities of the concerned region:

(a) the capacity calculation methodology pursuant to Article 10;

(b) the methodology for splitting cross-zonal capacity pursuant to Article 16;

(c) the regional design of long-term transmission rights pursuant to Article 31;

(d) the establishment of fallback procedures in accordance with Article 42;

(e) the regional requirements of the harmonised allocation rules pursuant to Article 52, including the regional compensation rules pursuant to Article 55;

**f.<sup>1</sup> the requirements for the regional allocation platform pursuant to Article 49;**

**(g) the methodology for sharing costs of establishing, developing and operating the regional allocation platform pursuant to Article 59.**

8. The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. Proposals for terms and conditions or methodologies subject to the approval by several or all regulatory authorities in accordance with paragraph 7 shall be submitted to the **Energy Community Regulatory Board and, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC** within 1 week of their submission to the regulatory authorities. Upon request by the competent regulatory authorities, the **Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC** shall issue an opinion within 3 months on the proposals for terms and conditions or methodologies.

9. Where the approval of the terms and conditions or methodologies in accordance with paragraph 7 or the amendment in accordance with paragraph 11 requires a decision by more than one regulatory authority, the competent regulatory authorities shall consult and closely cooperate and coordinate with each other in order to reach an agreement. Where applicable, the competent regulatory authorities shall take into account the opinion of **the Energy Community Regulatory Board or the Agency for the Cooperation of Energy Regulators**. Regulatory authorities or, where competent, the **Agency for the Cooperation of Energy Regulators acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC** shall take decisions concerning the submitted terms and conditions or methodologies in accordance with paragraph <...> 7, within 6 months following the receipt of the terms and conditions or methodologies by the **Agency for the Cooperation of Energy Regulators** or, where applicable, by the last regulatory authority concerned. The period shall begin on the day following that on which the proposal was submitted to the **Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators <...>** or to the last regulatory authority concerned in accordance with paragraph 7.

10. Where the regulatory authorities have not been able to reach an agreement within the period referred to in paragraph 9, or upon their joint request, **<...> the Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC** shall adopt a decision concerning the submitted proposals for terms and conditions or methodologies within 6 months <...>.

11. In the event that the **Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators** or all competent regulatory authorities jointly request an amendment to approve the terms and conditions or methodologies submitted in accordance with paragraph <...> 7, the relevant TSOs shall submit a proposal for amended terms and conditions or methodologies for approval within 2 months following the request from the **Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for**

<sup>1</sup> There is a clerical error in the Ministerial Council Decision D/2022/03/MC-EnC.

**the Cooperation of Energy Regulators** or the regulatory authorities. The **Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators** or the competent regulatory authorities shall decide on the amended terms and conditions or methodologies within 2 months following their submission. Where the competent regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies pursuant to paragraph 7 within the 2-month deadline, or upon their joint request **the Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC** shall adopt a decision concerning the amended terms and conditions or methodologies within 6 months <...>. If the relevant TSOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in paragraph 4 shall apply.

12. The **Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC** or the regulatory authorities jointly, where they are responsible for the adoption of terms and conditions or methodologies in accordance with paragraph <...> 7, may respectively request proposals for amendments of those terms and conditions or methodologies and determine a deadline for the submission of those proposals. TSOs responsible for developing a proposal for terms and conditions or methodologies may propose amendments to regulatory authorities and the Agency **for the Cooperation of Energy Regulators**.

The proposals for amendment to the terms and conditions or methodologies shall be submitted to consultation in accordance with the procedure set out in Article 6 and approved in accordance with the procedure set out in this Article.

13. TSOs responsible for establishing the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet after approval by the **Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators** or the competent regulatory authorities or, if no such approval is required, after their establishment, except where such information is considered as confidential in accordance with Article 7.

## **Article 5**

### **Stakeholder involvement**

The **Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators, acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC**, in close cooperation with ENTSO for Electricity, shall organise stakeholder involvement regarding forward capacity allocation and other aspects of the implementation of this Regulation. This shall include regular meetings with stakeholders to identify problems and propose improvements notably related to the operation and development of the forward capacity allocation, including the harmonisation of auction rules. This shall not replace the stakeholder consultations in accordance with Article 6.

## **Article 6**

### **Consultation**

1. TSOs responsible for submitting proposals for terms and conditions or methodologies or their amendments in accordance with this Regulation shall consult stakeholders, including the relevant authorities of each Member State **and Contracting Party**, on the draft proposals for terms and conditions or methodologies where explicitly set out in this Regulation. The consultation shall last for a period of not less than one month.
2. <...> Proposals submitted by the TSOs at regional level shall be submitted to consultation at least at regional level. Parties submitting proposals at bilateral or at multilateral level shall consult at least the Member States **and Contracting Parties** concerned.
3. The entities responsible for the proposal for terms and conditions or methodologies shall duly consider the views of stakeholders resulting from the consultations undertaken in accordance with paragraph 1, prior to its submission for regulatory approval if required in accordance with Article 4 or prior to publication in all other cases. In all cases, a clear and robust justification for including or not the views resulting from the consultation shall be developed and published in a timely manner before or simultaneously with the publication of the proposal for terms and conditions or methodologies.

## **Article 7**

### **Confidentiality obligations**

1. Any confidential information received, exchanged or transmitted pursuant to this Regulation shall be subject to the conditions of professional secrecy laid down in paragraphs 2, 3 and 4.
2. The obligation of professional secrecy shall apply to any persons subject to the provisions of this Regulation.
3. Confidential information received by the persons referred to in paragraph 2 in the course of their duties may not be divulged to any other person or authority, without prejudice to cases covered by national law, the other provisions of this Regulation or other relevant **national or Energy Community** legislation.
4. Without prejudice to cases covered by national law <...>, regulatory authorities, bodies or persons which receive confidential information pursuant to this Regulation may use it only for the purpose of the performance of their functions under this Regulation.

## TITLE II

### REQUIREMENTS FOR TERMS, CONDITIONS AND METHODOLOGIES

#### CHAPTER 1

#### Forward capacity calculation

##### Section 1

##### General requirements

##### *Article 8*

##### Capacity calculation regions

For the purposes of this Regulation the capacity calculation regions shall be those established pursuant to Article 15 of Regulation (EU) 2015/1222 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.

##### *Article 9*

##### Capacity calculation time frames

All TSOs in each capacity calculation region shall ensure that long-term cross-zonal capacity is calculated for each forward capacity allocation and at least on annual and monthly time frames.

##### Section 2

##### Capacity calculation methodology

##### *Article 10*

##### Capacity calculation methodology

1. No later than six months after the approval of the common coordinated capacity calculation methodology referred to in Article 9(7) of Regulation (EU) 2015/1222 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**, all TSOs in each capacity calculation region shall submit a proposal for a common capacity calculation methodology for long-term time frames within the respective region. The proposal shall be subject to consultation in accordance with Article 6.
2. The approach used in the common capacity calculation methodology shall be either a coordinated net transmission capacity approach or a flow-based approach.
3. The capacity calculation methodology shall be compatible with the capacity calculation methodology established for the day-ahead and intraday time frames pursuant to Article 21(1) of Regulation (EU)

2015/1222 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC.**

4. The uncertainty associated with long-term capacity calculation time frames shall be taken into account when applying:

(a) a security analysis based on multiple scenarios and using the capacity calculation inputs, the capacity calculation approach referred to in Article 21(1)(b) and the validation of cross-zonal capacity referred to in Article 21(1)(c) of Regulation (EU) 2015/1222 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**; or

(b) a statistical approach based on historical cross-zonal capacity for day-ahead or intraday time frames if it can be demonstrated that this approach may:

(i) increase the efficiency of the capacity calculation methodology;

(ii) better take into account the uncertainties in long-term cross-zonal capacity calculation than the security analysis in accordance with paragraph 4(a);

(iii) increase economic efficiency with the same level of system security.

5. All TSOs in each capacity calculation region may jointly apply the flow-based approach for long-term capacity calculation time frames on the following conditions:

(a) the flow-based approach leads to an increase of economic efficiency in the capacity calculation region with the same level of system security;

(b) the transparency and accuracy of the flow-based results have been confirmed in the capacity calculation region;

(c) the TSOs provide market participants with six months to adapt their processes.

6. Where a security analysis based on multiple scenarios is applied for developing the capacity calculation methodology in a capacity calculation region, the requirements for the capacity calculation inputs, the capacity calculation approach and the validation of cross-zonal capacity as provided for in Article 21(1) of Regulation (EU) 2015/1222 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**, except Article 21(1)(a)(iv) where relevant, shall apply.

7. When developing the capacity calculation methodology, the requirements for the fallback procedures and the requirement provided for in Article 21(3) of Regulation (EU) 2015/1222 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC** shall be taken into account.

### **Article 11**

#### **Reliability margin methodology**

The proposal for a common capacity calculation methodology shall include a reliability margin methodology which shall meet the requirements set out in Article 22 of Regulation (EU) 2015/1222 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC.**

## **Article 12**

### **Methodologies for operational security limits and contingencies**

The proposal for a common capacity calculation methodology shall include methodologies for operational security limits and contingencies which shall meet the requirements set out in Article 23(1) and (2) of Regulation (EU) 2015/1222 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC.**

## **Article 13**

### **Generation shift keys methodology**

The proposal for a common capacity calculation methodology shall include a methodology to determine generation shift keys which shall meet the requirements set out in Article 24 of Regulation (EU) 2015/1222 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC.**

## **Article 14**

### **Methodology for remedial actions**

If remedial actions are taken into account in the long-term capacity calculation, each TSO shall ensure that those remedial actions are technically available in real time operation and meet the requirements set out in Article 25 of Regulation (EU) 2015/1222 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC.**

## **Article 15**

### **Cross-zonal capacity validation methodology**

The proposal for a common capacity calculation methodology shall include a cross-zonal validation methodology which shall meet the requirements set out in Article 26 of Regulation (EU) 2015/1222 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC.**

## **Article 16**

### **Methodology for splitting long-term cross-zonal capacity**

1. No later than the submission of the capacity calculation methodology referred to in Article 10, the TSOs of each capacity calculation region shall jointly develop a proposal for a methodology for splitting long-term cross-zonal capacity in a coordinated manner between different long-term time frames within the respective region. The proposal shall be subject to consultation in accordance with Article 6 .

2. The methodology for splitting long-term cross-zonal capacity shall comply with the following conditions:

(a) it shall meet the hedging needs of market participants;

- (b) it shall be coherent with the capacity calculation methodology;
- (c) it shall not lead to restrictions in competition, in particular for access to long-term transmission rights.

### Section 3 Common grid model

#### *Article 17*

#### **Generation and load data provision methodology**

<...>

#### *Article 18*

#### **Common grid model methodology**

<...>

#### *Article 19*

#### **Scenarios**

1. All TSOs in capacity calculation regions, where security analysis based on multiple scenarios pursuant to Article 10 is applied, shall jointly **apply the** common set of scenarios **developed in accordance with Article 18 of Regulation (EU) 2015/1222** to be used in the common grid model for each long-term capacity calculation time frame.

2. <...>

#### *Article 20*

#### **Individual grid model**

When developing the individual grid model for a long-term capacity calculation time frame in capacity calculation regions, where security analysis based on multiple scenarios pursuant to Article 10 is applied, each TSO shall apply the requirements set in Article 19 of Regulation (EU) 2015/1222, **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.

### Section 4 Capacity calculation process

## **Article 21**

### **General provisions**

1. <...> No later than six months after the **expiry of the deadline for transposition of this Regulation, <...>**, all TSOs in each capacity calculation region shall jointly develop operational rules for long-term capacity calculation time frames supplementing the rules defined for the operation to merge the individual grid models pursuant to Article 27 of Regulation (EU) 2015/1222, **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.
2. The coordinated capacity calculators established in Article 27 of Regulation (EU) 2015/1222, **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**, shall calculate long-term cross-zonal capacities for their capacity calculation region. For this purpose, no later than six months after the approval of the capacity calculation methodology for long-term time frames referred to in Article 10, all TSOs in each capacity calculation region shall jointly develop operational rules for long-term capacity calculation time frames supplementing the rules defined for the operation of the coordinated capacity calculators pursuant to Article 27 of Regulation (EU) 2015/1222, **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.
3. The relevant requirements set in Article 27 of Regulation (EU) 2015/1222, **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**, shall apply for long-term capacity calculation time frames.

## **Article 22**

### **Creation of a common grid model**

The process and requirements set in Article 28 of Regulation (EU) 2015/1222, **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC** for **merging into** a common grid model shall apply when creating the common grid model for long-term capacity calculation time frames in capacity calculation regions, where security analysis based on multiple scenarios pursuant to Article 10 is applied.

## **Article 23**

### **Regional calculations of long-term cross-zonal capacities**

1. Where TSOs apply the statistical approach pursuant to Article 10, the process for the calculation of long-term cross-zonal capacity shall include at least:
  - (a) a selection of historical day-ahead or intraday cross-zonal capacity data sets from a single period or a set of periods and order the data into a duration curve;
  - (b) a calculation of capacity corresponding to the risk level for the selected data set;
  - (c) a calculation of long-term cross-zonal capacity to be offered to forward capacity allocation taking into account a margin to reflect the difference between historical cross-zonal capacity values and forecasted long-term cross-zonal capacity values;

(d) common rules to take into account available information about planned outages, new infrastructure and generation and load pattern for the long-term capacity calculation time frames.

2. Where TSOs apply the security analysis based on multiple scenarios pursuant to Article 10, the requirements set in Article 29 of Regulation (EU) 2015/1222, **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**, except Article 29(4) where relevant, shall apply to long-term capacity calculation time frames in capacity calculation regions.

3. Each coordinated capacity calculator shall split the calculated long-term cross-zonal capacity for each forward capacity allocation by applying the methodology for splitting cross-zonal capacity pursuant to Article 16.

4. Each coordinated capacity calculator shall submit the calculated long-term cross-zonal capacity and the splitting of long-term cross-zonal capacity for validation to each TSO within the relevant capacity calculation region pursuant to Article 24.

### **Article 24**

#### **Validation and delivery of cross-zonal capacity and split cross-zonal capacity**

1. Each TSO shall validate the results of the calculation for long-term cross-zonal capacity on its bidding zone borders or critical network elements for each long-term capacity calculation time frame pursuant to Article 15.

2. Each TSO shall validate the results of the calculation for splitting of long-term cross-zonal capacity on its bidding zone borders or critical network elements pursuant to Article 16.

3. Each TSO shall send its capacity validation and validated splitting of this capacity for each forward capacity allocation to the relevant coordinated capacity calculators and to the other TSOs of the relevant capacity calculation regions.

4. Validated splitting of long-term cross-zonal capacity shall be provided by each coordinated capacity calculator for the execution of forward capacity allocation pursuant to Article 29.

5. TSOs shall, upon request, provide to their regulatory authorities a report detailing how the value of long-term cross-zonal capacity for a specific long-term capacity calculation time frame has been obtained.

### **Article 25**

#### **Coordinated curtailment of cross-zonal capacity**

1. TSOs shall coordinate curtailments of already allocated long-term cross-zonal capacity, if the curtailments concern a time frame of more than 48 hours ahead of the start of the delivery day. In case of curtailment of long-term transmission rights, including nominations in respect of such rights, within 48 hours ahead of the start of the delivery day, TSOs in each capacity calculation region shall apply the day-ahead and intraday capacity calculation process as referred in Article 29 of Regulation (EU) 2015/1222, **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.

2. If a TSO needs to curtail already allocated long-term cross-zonal capacity, it shall send a request to the

responsible coordinated capacity calculator to launch the coordinated calculation of necessary curtailments of long-term cross-zonal capacity for the capacity calculation region. The TSO shall support its request with all relevant information.

3. The coordinated capacity calculator shall provide the updated cross-zonal capacity to the relevant TSOs for validation.

4. Each TSO shall validate the updated cross-zonal capacity on its bidding zone borders or critical network elements pursuant to Article 24.

5. The coordinated capacity calculator shall provide the validated updated cross-zonal capacity to the relevant TSOs and single allocation platform to perform curtailment pursuant to Article 53.

## Section 5

### Biennial report on capacity calculation

#### *Article 26*

#### **Biennial report on capacity calculation and allocation**

1. No later than two years after the **expiry of the deadline for transposition** of this Regulation, ENTSO for Electricity, **acting in accordance with Article 3 of Procedural Act No 2022/01/MC-EnC** shall **extend the reports on long-term capacity calculation and allocation drafted in accordance with Article 26(1) and (2) of Regulation (EU) 2016/1719 to include the Contracting Parties <...>. To the extent the report covers TSOs from Contracting Parties not part of the continental synchronized operation or not member of the ENTSO for Electricity, the Secretariat shall coordinate the relevant contributions.**

2. <...>

3. For each bidding zone, bidding zone border and capacity calculation region, the report on capacity calculation and allocation shall contain at least:

(a) the capacity calculation approach used;

(b) statistical indicators on reliability margins;

(c) statistical indicators of cross-zonal capacity, where appropriate for each capacity calculation time frame;

(d) quality indicators for the information used for the capacity calculation;

(e) where appropriate, proposed measures to improve capacity calculation;

(f) recommendations for further development of the forward capacity calculation, including further harmonisation of methodologies, processes and governance arrangements.

4. **For the report**, TSOs shall **use** the statistical and quality indicators **agreed in accordance with Article 26 of Regulation (EU) 2016/1719**. The Agency **for the Cooperation of Energy Regulators, acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC** may require the amendment of those indicators <...> during their application.

5. <...>

## **CHAPTER 2**

### **Bidding zones**

#### ***Article 27***

#### **General provisions**

1. The bidding zones applicable to day-ahead and intraday trading shall apply to forward capacity calculation and allocation.
2. Where a bidding zone border no longer exist, holders of long-term transmission rights on this bidding zone border shall be entitled to reimbursement by the concerned TSOs based on the initial price paid for the long-term transmission rights.

## **CHAPTER 3**

### **Forward capacity allocation**

#### **Section 1**

#### **General provisions**

#### ***Article 28***

#### **General principles**

The allocation of forward capacity shall take place in a way which:

- (a) uses the marginal pricing principle to generate results for each bidding zone border, direction of utilisation and market time unit;
- (b) allocates no more than the offered long-term cross-zonal capacity in accordance with Article 39;
- (c) is repeatable.

#### ***Article 29***

#### **Input and results**

1. The single allocation platform shall use the following inputs for determining the allocation of forward capacity in accordance with paragraph 2:
  - (a) validated splitting of long-term cross-zonal capacity submitted by each coordinated capacity calculator and capacities associated with returned long-term transmission rights pursuant to Article 43;
  - (b) bids submitted by market participants.
2. For each forward capacity allocation, the single allocation platform shall simultaneously determine at

least the following results for each bidding zone border, direction of utilisation and market time unit:

- (a) the volume of allocated long-term transmission rights expressed in MW;
- (b) the price of long-term transmission rights pursuant to Article 40;
- (c) the execution status of bids.

3. The single allocation platform shall ensure that auction results are accurate.

4. Each TSO shall ensure that the auction results are consistent with the inputs provided to the single allocation platform in accordance with paragraph 1.

## Section 2

### Options for cross-zonal transmission risk hedging

#### Article 30

##### Decision on cross-zonal risk hedging opportunities

1. TSOs on a bidding zone border shall issue long-term transmission rights unless the competent regulatory authorities of the bidding zone border have adopted coordinated decisions not to issue long-term transmission rights on the bidding zone border. When adopting their decisions, the competent regulatory authorities of the bidding zone border shall consult the regulatory authorities of the relevant capacity calculation region and take due account of their opinions.

2. Where long-term transmission rights do not exist on a bidding zone border at the entry into force of this Regulation, the competent regulatory authorities of the bidding zone border shall adopt coordinated decisions on the introduction of long-term transmission rights no later than six months after the **expiry of the deadline for transposition** of this Regulation.

3. The decisions pursuant to paragraphs 1 and 2 shall be based on an assessment, which shall identify whether the electricity forward market provides sufficient hedging opportunities in the concerned bidding zones. The assessment shall be carried out in a coordinated manner by the competent regulatory authorities of the bidding zone border and shall include at least:

- (a) a consultation with market participants about their needs for cross-zonal risk hedging opportunities on the concerned bidding zone borders;
- (b) an evaluation.

4. The evaluation referred to in paragraph 3(b) shall investigate the functioning of wholesale electricity markets and shall be based on transparent criteria which include at least:

- (a) an analysis of whether the products or combination of products offered on forward markets represent a hedge against the volatility of the day-ahead price of the concerned bidding zone. Such product or combination of products shall be considered as an appropriate hedge against the risk of change of the day-ahead price of the concerned bidding zone where there is a sufficient correlation between the day-ahead price of the concerned bidding zone and the underlying price against which the product or combination of products are settled;

- (b) an analysis of whether the products or combination of products offered on forward markets are efficient.

For this purpose, at least the following indicators shall be assessed:

- (i) trading horizon;
- (ii) bid-ask spread;
- (iii) traded volumes in relation to physical consumption;
- (iv) open interest in relation to physical consumption.

5. In case the assessment referred to in paragraph 3 shows that there are insufficient hedging opportunities in one or more bidding zones, the competent regulatory authorities shall request the relevant TSOs:

- (a) to issue long-term transmission rights; or
- (b) to make sure that other long-term cross-zonal hedging products are made available to support the functioning of wholesale electricity markets.

6. In case the competent regulatory authorities choose to issue a request as referred to in paragraph 5(b), the relevant TSOs shall develop the necessary arrangements and submit them to the competent regulatory authorities' approval no later than six months after the request by the competent regulatory authorities. Those necessary arrangements shall be implemented no later than six months after approval by the competent regulatory authorities. The competent regulatory authorities may extend the implementation time upon request from the relevant TSOs by a period of no more than 6 months.

7. Where regulatory authorities decide that long-term transmission rights shall not be issued by the respective TSOs or that other long-term cross-zonal hedging products shall be made available by the respective TSOs, Articles 16, 28, 29, 31 to 57, 59 and 61 shall not apply to the TSOs of the bidding zone borders.

8. Upon a joint request of the TSOs on a bidding zone border or at their own initiative, and at least every 4 years, the competent regulatory authorities of the bidding zone border shall perform, in cooperation with the **Energy Community Regulatory Board and, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators**, an assessment pursuant to paragraphs 3 to 5.

### **Article 31**

#### **Regional design of long-term transmission rights**

1. Long-term cross-zonal capacity shall be allocated to market participants by the allocation platform in the form of physical transmission rights pursuant to the UIOSI principle or in the form of FTRs — options or FTRs — obligations.

2. All TSOs issuing long-term transmission rights shall offer long-term cross-zonal capacity, through the single allocation platform **referred to in Article 48**, to market participants for at least annual and monthly time frames. All TSOs in each capacity calculation region may jointly propose to offer long-term cross-zonal capacity on additional time frames.

3. No later than six months after the **expiry of the deadline for transposition** of this Regulation, TSOs in each capacity calculation region where long-term transmission rights exist shall jointly develop a proposal for the regional design of long-term transmission rights to be issued on each bidding zone border within the capacity calculation region.

No later than six months after the coordinated decisions of the regulatory authorities of the bidding zone

border to introduce long-term transmission rights pursuant Article 30(2), TSOs of the concerned capacity calculation region, shall jointly develop a proposal for the regional design of long-term transmission rights to be issued on each bidding zone border within the concerned capacity calculation region.

Regulatory authorities of **Contracting Parties and** Member States in which the current regional design of long-term transmission rights is part of a TSO cross-border re-dispatch arrangement for the purpose of ensuring that operation remains within operational security limits may decide to maintain physical long-term transmission rights on its bidding zone borders.

4. The proposals referred to in paragraph 3 shall include a time schedule for implementation and at least the description of the following items specified in the allocation rules:

- (a) type of long-term transmission rights;
- (b) forward capacity allocation time frames;
- (c) form of product (base load, peak load, off-peak load);
- (d) the bidding zone borders covered.

5. The proposals shall be subject to consultation in accordance with Article 6. For the proposed long-term transmission rights to be issued, each TSO shall duly consider the result of the consultation.

6. The allocation of physical transmission rights and FTRs — options in parallel at the same bidding zone border is not allowed. The allocation of physical transmission rights and FTRs — obligations in parallel at the same bidding zone border is not allowed.

7. A review of long-term transmission rights offered on a bidding zone border may be launched by:

- (a) all regulatory authorities of the bidding zone border, at their own initiative; or
- (b) all regulatory authorities of the bidding zone border based upon a recommendation from the **Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators** or joint request by all TSOs of the concerned bidding zone border.

8. All TSOs in each capacity calculation region shall be responsible for undertaking the review as provided for in paragraph 9.

9. Each TSO involved in the review of long-term transmission rights shall:

- (a) assess the offered long-term transmission rights taking into account the characteristics in paragraph 4;
- (b) if considered necessary, propose alternative long-term transmission rights, taking into account the result of the assessment in subparagraph (a);
- (c) carry out a consultation in accordance with Article 6 regarding:
  - (i) the results of the assessment of the offered long-term transmission rights;
  - (ii) if applicable, the proposal for alternative long-term transmission rights.

10. Following the consultation referred to in paragraph 9(c) and within three months of the issuance of the decision to launch a review, the TSOs of the capacity calculation region concerned shall jointly submit a proposal to the competent regulatory authorities to maintain or amend the type of long-term transmission rights.

## **Article 32**

## Physical transmission rights

1. Each physical transmission right holder shall be entitled to nominate all or part of its physical transmission rights pursuant to Article 36.
2. Where the physical transmission rights holders do not make a nomination by the deadline specified in the nomination rules, they shall be entitled to obtain remuneration in accordance with Article 35.

### **Article 33**

#### **Financial transmission rights — options**

1. Holders of FTRs — options shall be entitled to obtain remuneration in accordance with Article 35.
2. The implementation of FTRs — options shall be subject to the application of day-ahead price coupling in accordance with Articles 38 to 50 of Regulation (EU) 2015/1222, **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.

### **Article 34**

#### **Financial transmission rights — obligations**

1. Holders of FTRs — obligations shall be entitled to receive or obliged to pay the financial remuneration pursuant to Article 35.
2. The implementation of FTRs — obligations shall be subject to the application of day-ahead price coupling according to Articles 38 to 50 of Regulation (EU) 2015/1222, **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.

### **Article 35**

#### **Principles for long-term transmission rights remuneration**

1. The relevant TSOs performing the allocation of transmission rights on a bidding zone border through the single allocation platform shall remunerate the long-term transmission rights holders in case the price difference is positive in the direction of the long-term transmission rights.
2. The holders of FTRs — obligations shall remunerate the relevant TSOs through the single allocation platform allocating transmission rights on a bidding zone border in case the price difference is negative in the direction of the FTRs — obligations.
3. The remuneration of long-term transmission rights in paragraphs 1 and 2 shall comply with the following principles:
  - (a) where the cross-zonal capacity is allocated through implicit allocation or another method resulting from a fallback situation in the day-ahead time frame, the remuneration of long-term transmission rights shall be equal to the market spread;

(b) where the cross-zonal capacity is allocated through explicit auction in the day-ahead time frame, the remuneration of long-term transmission rights shall be equal to the clearing price of the daily auction.

4. In case allocation constraints on interconnections between bidding zones have been included in the day-ahead capacity allocation process in accordance with Article 23(3) of Regulation (EU) 2015/1222, **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**, they may be taken into account for the calculation of the remuneration of long-term transmission rights pursuant to paragraph 3.

### Section 3

## Nomination procedures for physical transmission rights

### Article 36

#### General provisions for physical transmission rights nomination

1. Where TSOs issue and apply physical transmission rights on bidding zone borders, they shall enable physical transmission rights holders and/or their counterparties to nominate their electricity exchange schedules. Physical transmission rights holders may authorise eligible third parties to nominate their electricity exchange schedules on their behalf in line with the nomination rules in accordance with paragraph 3.

2. No later than 12 months after the **expiry of the deadline for transposition** of this Regulation, all TSOs issuing physical transmission rights on a bidding zone border shall submit to the relevant regulatory authorities' approval a proposal for nomination rules for electricity exchange schedules between bidding zones. The proposal shall be subject to consultation in accordance with Article 6. Nomination rules shall contain at least the following information:

- (a) the entitlement of a physical transmission rights holder to nominate electricity exchange schedules;
- (b) minimum technical requirements to nominate;
- (c) description of the nomination process;
- (d) nomination timings;
- (e) format of nomination and communication.

3. All TSOs shall progressively harmonise the nomination rules on all bidding zone borders on which physical transmission rights are applied.

4. Physical transmission rights holders, their counterparties where applicable or an authorised third party acting on their behalf shall nominate all or part of their physical transmission rights between bidding zones in compliance with the nomination rules.

5. In case allocation constraints on interconnections between bidding zones have been included in the day-ahead capacity allocation process in accordance with Article 23(3) of Regulation (EU) 2015/1222, **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**, they shall be taken into account in the proposal for nomination rules referred to in paragraph 2.

## Section 4

### Processes and operation

#### **Article 37**

##### **Terms and conditions for participation in the forward capacity allocation**

1. Market participants shall be registered with the single allocation platform **referred to in Article 48** and meet all eligibility requirements under the harmonised allocation rules before being entitled to participate in the auctions or transfer their long-term transmission rights. The eligibility requirements shall comply with the principles of non-discrimination and transparency.
2. Following a market participant's request for registration, the single allocation platform shall notify the market participant whether it fulfils all eligibility requirements and is entitled to participate in the auctions or transfer its long-term transmission rights from a specified date.
3. Market participants shall fully comply with the harmonised allocation rules. They shall keep all information relating to their participation up to date and notify the single allocation platform of any changes to this information without delay.
4. The single allocation platform shall be entitled to suspend or withdraw a market participant's right to participate in the auctions or transfer its long-term transmission rights following a breach of its contractual obligations under the harmonised allocation rules.
5. The suspension or withdrawal of the right of the market participant to participate in the auctions or transfer its long-term transmission right pursuant to the harmonised allocation rules shall not exonerate a market participant or the single allocation platform from their obligations deriving from long-term transmission rights allocated and paid before the suspension or withdrawal.

#### **Article 38**

##### **Submission of input data to the single allocation platform**

Each TSO shall ensure that validated splitting of long-term cross-zonal capacity is submitted to the single allocation platform prior to the publication of the auction specification in accordance with Article 39.

#### **Article 39**

##### **Operation of the forward capacity allocation**

1. No later than the time specified in the harmonised allocation rules for each forward capacity allocation, an auction specification containing at least the following information shall be defined and published on the single allocation platform:
  - (a) date and time of gate opening and gate closure of the auction;
  - (b) validated splitting of long-term cross-zonal capacity and type of the long-term transmission rights that

will be auctioned;

(c) format of bids;

(d) date and time of publication of auction results;

(e) the period during which auction results can be contested.

2. The published long-term cross-zonal capacity shall not be modified during a period prior to the gate closure of the auction. The harmonised allocation rules shall specify that period.

3. Each market participant shall submit its bids to the single allocation platform prior to the gate closure time and in accordance with the conditions set out in the auction specification.

4. The single allocation platform shall ensure the confidentiality of submitted bids.

#### ***Article 40***

### **Pricing of the long-term transmission rights**

The price of long-term transmission rights for each bidding zone border, direction of utilisation and market time unit shall be determined based on the marginal price principle and expressed in euro per megawatt. In case the demand for the long-term cross-zonal capacity for a bidding zone border, direction of utilisation and market time unit is lower or equal to the offered long-term cross-zonal capacity, the price shall be zero.

#### ***Article 41***

### **Financial requirements and settlement**

1. The single allocation platform shall provide invoicing or self-billing procedures for the settlement of debits or credits resulting from the allocation of long-term transmission rights, the return of long-term transmission rights and the remuneration of long-term transmission rights. The harmonised allocation rules shall specify those procedures.

2. In order to participate in the auctions, a market participant shall have sufficient collaterals to secure bids and allocated long-term transmission rights in accordance with the conditions set out in the harmonised allocation rules.

#### ***Article 42***

### **Establishment of fallback procedures**

1. In the event that forward capacity allocation is unable to produce results, the default fallback procedure shall be the postponement of the forward capacity allocation.

2. All TSOs in each capacity calculation region shall be entitled to implement alternative coordinated fallback solutions. In such cases, all TSOs in each capacity calculation region shall develop a coordinated proposal for reliable fallback procedures.

### **Article 43**

#### **Return of long-term transmission rights**

1. Long-term transmission rights holders may return their long-term transmission rights to the relevant TSOs through the single allocation platform for subsequent forward capacity allocation.
2. Long-term transmission rights holders willing to return their long-term transmission rights for subsequent forward capacity allocation shall notify this, directly or indirectly through a third party, to the single allocation platform as set out in the harmonised allocation rules.
3. Long-term transmission rights holders who return their long-term transmission rights shall be remunerated, directly or indirectly through a third party, by the relevant TSOs through the single allocation platform **referred to in Article 48**. Such remuneration shall be equal to the price resulting from the auction where the long-term transmission rights are reallocated.

### **Article 44**

#### **Transfer of long-term transmission rights**

1. Long-term transmission rights holders shall be entitled to transfer all or part of their long-term transmission rights to other market participants in accordance with the harmonised allocation rules.
2. The rules on admissibility and a list of market participants registered with the single allocation platform and eligible to transfer long-term transmission rights shall be published on the single allocation platform.
3. Long-term transmission rights holders shall notify the transfer of long-term transmission rights, directly or indirectly through a third party, to the single allocation platform in accordance with the harmonised allocation rules.
4. Market participants acquiring those long-term transmission rights shall confirm, in accordance with the harmonised allocation rules, directly or indirectly through a third party, to the single allocation platform the notification sent by the previous long-term transmission rights holder.

### **Article 45**

#### **Delivery of results**

1. The single allocation platform **referred to in Article 48** shall notify the TSOs responsible for the bidding zone border to which the long-term transmission rights are associated, the market participants and the long-term transmission rights holders about the result of the forward capacity allocation within the time frame provided in the auction specification.
2. The single allocation platform shall inform market participants about the execution status and clearing prices of their bids.

## **Article 46**

### **Initiation of fallback procedures**

1. In the event that the single allocation platform is unable to deliver either the auction specification in accordance with Article 39 or part or all of the results of the forward capacity allocation within the time frame specified in the harmonised allocation rules, the TSOs responsible on the bidding zone border shall implement the fallback procedures established pursuant to Article 42.
2. As soon as a failure to deliver the items referred to in paragraph 1 is identified, the single allocation platform shall notify the TSOs responsible on the bidding zone border. The single allocation platform shall notify market participants that fallback procedures may be applied.

## **Article 47**

### **Publication of market information**

1. At least the following information for each bidding zone border and direction of utilisation shall be published on the single allocation platform:
  - (a) auction specification in accordance with Article 39;
  - (b) an indicative auction calendar setting out the type of long-term transmission rights to be offered and the dates when those long-term transmission rights shall be offered to market participants;
  - (c) forward capacity allocation results in accordance with Article 29;
  - (d) number of market participants in each auction;
  - (e) list of eligible market participants for the transfer of long-term transmission rights;
  - (f) the single allocation platform's contact details.
2. The relevant TSOs shall publish, through the single allocation platform, the information required referred to in paragraph 1 in accordance with the timing set out in the auction specification and in Regulation (EU) No 543/2013, **as adapted and adopted by Ministerial Council Decision 2015/01/MC-Enc.**
3. The single allocation platform shall ensure that historical data for a period of not less than five years is made publicly available.

## **CHAPTER 4**

### **Regional allocation platform<sup>2</sup>**

## **Article 48**

### **Regional allocation platform**

1. All TSOs **of Contracting Parties** shall ensure that **a regional** allocation platform is operational and complies with the functional requirements specified in Article 49 within 12 months after the approval of the

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2 There is a clerical error in the Ministerial Council Decision 2022/03/MC-Enc.

proposal for a common set of requirements and for the establishment of **a regional** allocation platform. The competent regulatory authorities may extend this period upon request from the relevant TSOs due to delays relating to public procurement procedures by a period of no more than 6 months.

2. Forward capacity allocations on Direct Current interconnectors shall take place on **a regional** allocation platform no later than 24 months after the approval as referred to in paragraph 1.

**3. The regional allocation platform shall be open to participation of TSOs of Member State and third countries.**

**4. For interconnections between Contracting Parties and Member States, the respective transmission system operators shall by no later than the expiry of the deadline for transposition of this Regulation conclude a bilateral agreement to determine whether forward capacity allocations for the relevant interconnection shall be performed by the regional allocation platform established in accordance with this Article, or the single allocation platform established in accordance with Article 48 of Regulation 2016/1719.**

**5. The regional allocation platform shall perform its tasks in close cooperation with the single platform established in accordance with Article 48 of Regulation 2016/1719, and harmonize its operational and allocation rules with those applied by that single platform. For this purpose, the platforms may enter into administrative cooperation agreements.**

**6. Where the transmission system operators of a Contracting Party and a Member State fail to conclude an agreement referred to in paragraph 4, the tasks of the regional allocation platform related to interconnection between that Contracting Party and Member State shall be integrated into the single allocation platform established in accordance with Article 48 of Regulation 2016/1719 within 18 month after expiry of the deadline for implementation of this Regulation.**

### **Article 49**

#### **Functional requirements**

1. Within six months after the entry into force of this Regulation, all TSOs shall submit to all regulatory authorities a common proposal for a set of requirements <...> of the **regional** allocation platform **servicing the TSOs of Contracting Parties**. The proposal shall identify different options for the establishment and governance of the **regional** allocation platform, including the development by TSOs or by third parties on their behalf. The proposal by TSOs shall cover the general tasks of the **regional** allocation platform provided for in Article 50 and the requirements for cost recovery in accordance with Article 59.

2. The functional requirements for the single allocation platform shall at least include:

- (a) the expected bidding zone borders to be covered;
- (b) the technical availability and reliability of provided services;
- (c) the operational processes;
- (d) the products to be offered;
- (e) the forward capacity allocation time frames;
- (f) the allocation methods and algorithms;

- (g) the principles of financial settlement and risk management of allocated products;
- (h) a harmonised contractual framework with market participants;
- (i) the data interfaces.

### **Article 50**

#### **General tasks**

The relevant TSOs shall use the **regional** allocation platform, at least, for the following purposes:

- (a) the registration of market participants;
- (b) providing a single point of contact to market participants;
- (c) the operation of auction procedures;
- (d) the financial settlement of allocated long-term transmission rights with market participants, including management of collaterals;
- (e) the cooperation with a clearing house, if required by the common rules for the implementation of FTRs — obligations pursuant to Article 34;
- (f) the organisation of a fallback procedure pursuant to Article 42 and 46;
- (g) enabling the return of long-term transmission rights pursuant to Article 43;
- (h) facilitating the transfer of long-term transmission rights pursuant to Article 44;
- (i) the publication of market information pursuant to Article 47;
- (j) providing and operating interfaces for data exchange with market participants.

## **CHAPTER 5**

### **Harmonised allocation rules**

#### **Article 51**

##### **Introduction of harmonised allocation rules**

1. Within six months after the entry into force of this Regulation, all TSOs shall **apply the** harmonised allocation rules for long-term transmission rights pursuant to Article 52(2) **of Regulation (EU) 2016/1719**. <...>
2. Once the regional requirements have entered into force, they shall prevail over the general requirements defined in the harmonised allocation rules. In case the general requirements of the harmonised allocation rules are amended and submitted to all regulatory authorities' approval, the regional requirements shall also be submitted to regulatory authorities' approval of the concerned capacity calculation region.

**Article 52****Requirements for the harmonised allocation rules**

Except for interconnections with third countries, the harmonised allocation rules for long-term transmission rights may not deviate from Article 52<sup>3</sup> of Regulation (EU) 2015/1222.

2. <...>
3. <...>

**CHAPTER 6****Firmness of allocated cross-zonal capacity****Article 53****General firmness provisions**

1. All TSOs shall be entitled to curtail long-term transmission rights to ensure operation remains within operational security limits prior to the day-ahead firmness deadline. Where TSOs curtail long-term transmission rights, they shall report this to the respective regulatory authorities and also publish the factual reasons that lead to the curtailment.
2. The concerned TSOs on the bidding zone border where long-term transmission rights have been curtailed shall compensate the holders of curtailed long-term transmission rights with the market spread.

**Article 54****Definition of caps**

1. The concerned TSOs on a bidding zone border may propose a cap on the total compensation to be paid to all holders of curtailed long-term transmission rights in the relevant calendar year or the relevant calendar month in case of Direct Current interconnectors.
2. The cap shall not be lower than the total amount of congestion income collected by the concerned TSOs on the bidding zone border in the relevant calendar year. In case of Direct Current interconnectors, TSOs may propose a cap not lower than the total congestion income collected by the concerned TSOs on the bidding zone border in the relevant calendar month.
3. In case of several interconnectors operated by different TSOs on the same bidding zone border and subject to different regulatory regimes overseen by regulatory authorities, the total congestion income used for calculation of capped compensation pursuant to paragraph 2 may be dissociated between each interconnector. Such a division shall be proposed by the concerned TSOs and approved by the competent regulatory authorities.

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<sup>3</sup> There is a clerical error in the Ministerial Council Decision 2022/03/MC-EnC.

## **Article 55**

### **Compensation rules**

Where TSOs propose to apply a cap referred to in Article 54, they shall jointly propose a set of compensation rules with regard to the applied cap.

## **Article 56**

### **Firmness in the event of *force majeure***

1. In the event of *force majeure*, TSOs may curtail long-term transmission rights. Such curtailment shall be undertaken in a coordinated manner following liaison with all TSOs directly affected.
2. The TSO which invokes the *force majeure* shall publish a notification describing the nature of the *force majeure* and its probable duration.
3. In the event of curtailment due to *force majeure* the concerned holders of long-term transmission rights shall receive compensation for the period of that *force majeure* by the TSO which invoked the *force majeure*. In this case, the compensation shall be equal to the amount initially paid for the concerned long-term transmission right during the forward allocation process.
4. The TSO which invokes a *force majeure* shall make every possible effort to limit the consequences and duration of the *force majeure*.
5. Where a **Contracting Party** or Member State has so provided, upon request by the TSO concerned, the national regulatory authority shall assess whether an event qualifies as *force majeure*.

## **CHAPTER 7**

### **Congestion income distribution**

## **Article 57**

### **Congestion income distribution methodology**

<...>

## **CHAPTER 8**

### **Cost recovery**

## **Article 58**

### **General provisions on cost recovery**

1. Costs incurred by TSOs arising from obligations in this Regulation shall be assessed by all regulatory authorities.

2. Costs assessed as reasonable, efficient and proportionate shall be recovered in a timely manner through network tariffs or other appropriate mechanisms as determined by the competent regulatory authorities.
3. If requested by regulatory authorities, relevant TSOs shall, within three months of the request, provide information necessary to facilitate the assessment of the costs incurred.

#### **Article 59**

##### **Cost of establishing, developing and operating the single allocation platform**

All TSOs issuing long-term transmission rights on a single allocation platform shall jointly bear the costs related to the establishment and operation of a single allocation platform. Within six months of **the expiry of the deadline for transposition** of this regulation, all TSOs shall propose a methodology for sharing these costs, which shall be reasonable, efficient and proportionate, for example on the basis of principles similar to those provided under Article 80 of Regulation (EU) No 2015/1222, **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.

#### **Article 60**

##### **Cost of establishing and operating the coordinated capacity calculation process**

1. Each TSO shall individually bear the costs related to the provision of inputs to the capacity calculation.
2. All TSOs shall jointly bear the costs related to the establishment and operation of merging the individual grid models.
3. All TSOs in each capacity calculation region shall bear costs of establishing and operating the coordinated capacity calculators.

#### **Article 61**

##### **Cost of ensuring firmness and remuneration of long-term transmission rights**

1. The cost of ensuring firmness shall include costs incurred from compensation mechanisms associated with ensuring firmness of cross-zonal capacities as well as the cost of re-dispatching, countertrading and imbalance associated with compensating market participants and be borne by TSOs, to the extent possible in accordance with Article 16(6)(a) of Regulation (EC) No 714/2009, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**.

2. When fixing or approving transmission tariffs or other appropriate mechanism in accordance with Article 37(1)(a) of Directive 2009/72/EC, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**, and having regard to Article 14(1) of Regulation (EC) No 714/2009, **as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC**, regulatory authorities shall consider compensation payments as eligible costs provided that they are reasonable, efficient and proportionate.

3.<...>

## TITLE III DELEGATION OF TASKS AND MONITORING

### *Article 62*

#### **Delegation of tasks**

1. A TSO may delegate all or part of any task assigned to it under this Regulation to one or more third parties in the case the third party can carry out the respective function at least as effectively as the delegating TSO. The delegating TSO shall remain responsible for ensuring compliance with the obligations under this Regulation, including ensuring access to information necessary for monitoring by the regulatory authority.
2. Prior to the delegation, the third party concerned shall have clearly demonstrated to the delegating TSO its ability to meet each of the obligations of this Regulation.
3. In the event that all or part of any task specified in this Regulation is delegated to a third party, the delegating TSO shall ensure that suitable confidentiality agreements in accordance with the confidentiality obligations of the delegating TSO have been put in place prior to delegation.

### *Article 63*

#### **Monitoring**

1. **The Energy Community Secretariat** shall monitor the implementation of forward capacity allocation and the establishment of single allocation platform in accordance with **this Regulation**. Monitoring shall cover in particular the following matters  
the progress and potential problems with the implementation of forward capacity allocation, including fair and transparent access for market participants to long-term transmission rights;  
the effectiveness of the methodologies for splitting long-term cross-zonal capacity in accordance with Article 16;  
the report on capacity calculation and allocation in accordance with Article 26;  
the effectiveness of the operation of the forward capacity allocation and the single allocation platform.
2. <...>
3. <...>
4. Market participants and other relevant organisations regarding forward capacity allocation shall, at the joint request of the **ENTSO for Electricity and the Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators**, submit to **the Secretariat** the information required for monitoring in accordance with paragraph 1, except for information already obtained by the regulatory authorities, **the Energy Community Regulatory Board** or the Agency **for the Cooperation of Energy Regulators**. <...>

## **TITLE IV FINAL PROVISIONS**

### ***Article 64***

#### **Entry into force**

**This Decision D/2022/03/MC-EnC enters into force upon its adoption and is addressed to the Parties and institutions of the Energy Community.<sup>4</sup>**

#### ***Article 2 of Decision D/2022/03/MC-EnC***

**Each Contracting Party shall bring into force the laws, regulations and administrative provisions necessary to comply with <...>, Regulation (EU) 2016/1719, <...> by 31 December 2023.**

**Each Contracting Party shall notify the Energy Community Secretariat of completed transposition by sending the text of the provisions of national law which they adopt in the field covered by this Decision and of any subsequent changes within two weeks following the adoption of such measures.**

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<sup>4</sup> The text displayed here corresponds to Article 13 of Decision D/2022/03/MC-EnC.