OPINION OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS No 03/2018

of 19 April 2018

ON THE APPLICATION OF ARTICLE 5 AND ARTICLE 141(2) OF COMMISSION REGULATION (EU) 2017/1485 ESTABLISHING A GUIDELINE ON ELECTRICITY TRANSMISSION SYSTEM-operation

THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

HAVING REGARD to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators¹, and, in particular, Article 7(6) thereof,

HAVING REGARD to the outcome of the consultation with the European Commission, pursuant to Article 7(6) of Regulation (EC) No 713/2009,

HAVING REGARD to the favourable opinion of the Board of Regulators of 19 April 2018, delivered pursuant to Article 15(1) of Regulation (EC) No 713/2009,

WHEREAS:

1. Introduction

(1) By letter dated 19 January 2018, the regulatory authority of Finland, Energiavirasto, requested an opinion of the Agency, according to Article 7(6) of Regulation (EC) No 713/2009, with regard to difficulties which Energiavirasto had encountered in the application of Commission Regulation (EU) 2017/1485 establishing a guideline on electricity transmission system operation².

(2) The difficulties with the application of Regulation (EU) 2017/1485 relate to the determination of the load-frequency control (‘LFC’) block for the Nordic synchronous area in accordance with Article 141(2) of the same Regulation. In essence, they concern the requirement under which the transmission system operators (‘TSOs’) should develop a

common proposal for the determination of the LFC blocks. In that context, Energiavirasto put forward seven specific questions.

2. **Legal context**

   (3) Regulation (EU) 2017/1485 lays down requirements and principles concerning operational security, rules and responsibilities for the coordination and data exchange between TSOs, between TSOs and distribution system operators (‘DSOs’), and between TSOs or DSOs and significant grid users, in operational planning and in close-to-real-time operation, rules for training and certification of system operator employees, requirements on outage coordination, requirements for scheduling between the TSOs’ control areas, and rules aiming at the establishment of a Union framework for LFC and reserve. According to its Article 192 and its publication in the Official Journal of the European Union on 25 August 2017, Regulation (EU) 2017/1485 entered into force on 14 September 2017.

   (4) With regard to its scope of application, Article 2 of Regulation (EU) 2017/1485 provides:

   2. This Regulation shall apply to all transmission systems, distribution systems and interconnections in the Union and regional security coordinators, except transmission systems and distribution systems or parts of the transmission systems and distribution systems located in islands of Member States of which the systems are not operated synchronously with Continental Europe (‘CE’), Great Britain (‘GB’), Nordic, Ireland and Northern Ireland (‘IE/NI’) or Baltic synchronous area.

   (5) With regard to LFC and reserve, Article 141 of Regulation (EU) 2017/1485 provides:

   2. By 4 months after entry into force of this Regulation, all TSOs of a synchronous area shall jointly develop a common proposal regarding the determination of the LFC blocks, which shall comply with the following requirements:

   (a) a monitoring area corresponds to or is part of only one LFC area;
   (b) a LFC area corresponds to or is part of only one LFC block;
   (c) a LFC block corresponds to or is part of only one synchronous area; and
   (d) each network element is part of only one monitoring area, only one LFC area and only one LFC block.

   (6) With regard to the development of the common proposal regarding the determination of the LFC blocks, Article 5 Regulation (EU) 2017/1485 provides:

   1. TSOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the competent regulatory authorities in accordance with Article 6(2) and (3) or for approval to the entity
designated by the Member State in accordance with Article 6(4) within the respective deadlines set out in this Regulation.

2. 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 ENTSO for Electricity, shall regularly inform the regulatory authorities and the Agency about the progress of developing those terms and conditions or methodologies.

7. TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 6(3) in relation to regions composed of five Member States or less shall decide on the basis of a consensus.

9. Where TSOs fail to submit a proposal for terms and conditions or methodologies to the regulatory authorities in accordance with Article 6(2) and (3) or to the entities designated by the Member States in accordance with Article 6(4) within the deadlines defined in this Regulation, they shall provide the competent regulatory authorities and the Agency with the relevant drafts of the terms and conditions or methodologies, and explain why an agreement has not been reached. The Agency shall inform the Commission and shall, in cooperation with the competent regulatory authorities, at the Commission’s request, investigate the reasons for the failure and inform the Commission thereof. The Commission shall take the appropriate steps to make possible the adoption of the required terms and conditions or methodologies within 4 months from the receipt of the Agency’s information.

(7) With regard to the approval of the common proposal regarding the determination of the LFC blocks, Article 6 Regulation (EU) 2017/1485 provides:

3. The proposals for the following terms and conditions or methodologies shall be subject to approval by all regulatory authorities of the concerned region, on which a Member State may provide an opinion to the concerned regulatory authority:

(g) common proposal per synchronous area for the determination of LFC blocks in accordance with Article 141(2).

(8) With regard to TSOs of non-EU Member States, Article 13 of Regulation (EU) 2017/1485 provides:

Where a synchronous area encompasses both union and third country TSOs, within 18 months after entry into force of this Regulation, all Union TSOs in that synchronous area shall endeavour to conclude with the third country TSOs not bound by this Regulation an agreement setting the basis for their cooperation
3. Difficulties with the application of Regulation (EU) 2017/1485

(9) The difficulties described by Energiavirasto can be summarised as follows:

(10) In September 2017, the Finnish TSO Fingrid Oyj (‘Fingrid’) informed Energiavirasto that the Norwegian TSO Statnett SF (‘Statnett’) and the Swedish TSO Affärsverket svenska kraftnät (‘Svenska kraftnät’) would accept Fingrid and the Danish TSO Energinet (‘Energinet’) to be in the same LFC block with Statnett and Svenska kraftnät if Fingrid and Energinet agreed with a governance structure under which Svenska kraftnät and Statnett have all the decision-making powers with regard to the implementation of Regulation (EU) 2017/1485 and the draft regulation for the guideline on electricity balancing, including the joint proposal for the LFC block according to Article 141(2) of Regulation (EU) 2017/1485.

(11) In its reply to Fingrid, Energiavirasto pointed out, inter alia, that (i) the TSOs have the responsibility to develop the proposals and submit them for the regulatory authorities’ approval and cannot assign this responsibility to another entity; (ii) the TSOs shall closely cooperate when preparing a proposal given by more than one TSO; (iii) the TSOs shall take their decisions on proposals by consensus where the proposals concern regions composed of five Member States or less; and (iv) the requirements set by the legislator in Regulation (EU) 2017/1485 are not for the TSOs to be agreed otherwise in contracts.

(12) In October 2017, Statnett, Svenska kraftnät and Energinet signed a slightly modified three-party agreement including a governance structure with two-thirds majority voting rules where Statnett and Svenska kraftnät weigh 40% each and Energinet 20%. Statnett and Svenska kraftnät offered this three-party agreement, to be adjusted to four participants with unequal voting rules, to Fingrid. Since Fingrid did not agree to this agreement, Statnett and Svenska kraftnät did not agree to include Fingrid in the same LFC block until the details of TSO cooperation and decision-making are agreed.

(13) As a result, Fingrid, Kraftnät Åland Ab (‘Kraftnät Åland’), Svenska kraftnät and Energinet failed to submit a proposal on the determination of LFC blocks by 14 January 2018 as required by Article 141(2) of Regulation (EU) 2017/1485. Fingrid notified this failure to Energiavirasto and the Agency on 15 January 2018.

(14) On 18 January 2018, Fingrid provided Energiavirasto with a document on the ‘Status of the proposal from all Nordic TSOs for the determination of LFC blocks within the Nordic Synchronous Area in accordance with Article 141(2) of the Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation (“SO GL”)’ according to which the Nordic TSOs were about to sign a memorandum of understanding for a Nordic balancing cooperation and agreed that the development of a cooperation agreement for balancing cooperation in the Nordic
synchronous area is a prerequisite for the submission of a common proposal on the definition of one common Nordic LFC block.

(15) On 19 January 2018, the Nordic TSOs Svenska kraftnät, Energinet, Fingrid, Kraftnät Åland and Statnett agreed on a memorandum of understanding to work together to develop and agree on a cooperation agreement on the design, development and operation of the balancing function for the Nordic synchronous area. The memorandum of understanding confirmed that a cooperation agreement for balancing cooperation is a precondition for the proposal of the Nordic LFC block according to Article 141(2) of Regulation (EU) 2017/1485.

(16) In Energiavirasto’s view, Regulation (EU) 2017/1485 sets out the relevant scope and governance for the TSOs to cooperate and comply with when developing a proposal for determining the LFC blocks, and arbitrary contractual agreements, particularly with non-EU parties, cannot be a prerequisite for complying with obligations imposed by EU regulation.

4. The request

(17) Energiavirasto requested the Agency’s ‘opinion on the abovementioned difficulties with the application of the SO GL’ and ‘[s]pecifically but not limited to, [...] the following questions:

1) Can the TSOs effectively agree to deviate from or add preconditions to the TSO decision-making provisions set in article 5 of SO GL?

2) If a TSO would agree to a contract in contradiction to the provisions set in article 5 of SO GL would this be considered as a breach of the regulation?

3) Can a non-EU party Statnett be granted contractual veto power on the effective implementation of the EU regulation?

4) Is the described governance structure with voting rules that has been agreed by Statnett, Svenska kraftnät and Energinet and proposed to Fingrid in line with the provisions of the SO GL?

5) Can the TSOs set prerequisites outside the scope of the SO GL for complying with the obligations set in the SO GL? For example, can the TSOs abstain from submitting the LFC block proposal to the NRAs before contractual agreements that are not recognized in the SO GL are made?

6) Can the TSOs ignore the deadlines for submitting a proposal to the NRAs for approval set in the SO GL and effectively agree to follow another process set by themselves?

7) If TSOs fail to submit a proposal for terms and conditions or methodologies to the competent NRAs within the deadlines defined in the SO GL but choose not
to provide the competent NRAs and the Agency the relevant drafts of the terms and conditions or methodologies as well as an explanation why an agreement has not been reached, would this be considered as a breach of the regulation?"

5. Procedure

(18) On 19 January 2018, the Agency received Energiavirasto’s request for an opinion, according to Article 7(6) of Regulation (EC) No 713/2009, on implementing Regulation (EU) 2017/1485. The request included attachments concerning Energiavirasto’s view on the implementation of Regulation (EU) 2017/1485 and the draft regulation for a guideline on electricity balancing, as well as concerning the status of the proposal of all Nordic TSOs for the determination of LFC blocks within the Nordic synchronous area in accordance with Article 141(2) of Regulation (EU) 2017/1485.

(19) On 2 February 2018, the Agency held a telephone conference with the regulatory authorities of Denmark, Finland, Sweden and Norway to discuss the request of Energiavirasto and especially the specific questions raised therein. In this discussion, the Nordic regulatory authorities seemed to have in essence a common position on the questions at issue. They indicated their willingness to share this position with the Nordic TSOs in a common letter which was sent on 14 February 2018. In this context, it was also discussed whether Energiavirasto could consider withdrawing its request for opinion.

(20) By email of 20 February 2018, Energiavirasto informed the Agency that it would not withdraw its request for opinion as it considered that not all questions had been fully addressed in the regulatory authorities’ letter of 14 February 2018.

(21) On 9 March 2018, Svenska kraftnät, Energinet, Fingrid, Kraftnät Åland and Statnett announced that they reached a cooperation agreement on the development of a new Nordic balancing concept and that they launched a public consultation on a proposal from all TSOs of the Nordic synchronous area for the determination of LFC blocks within the Nordic Synchronous Area in accordance with Article 141(2) of Regulation (EU) 2017/1485.

(22) By email of 24 March 2018 to the Directorate-General for Energy, the Agency consulted the European Commission, seeking its view on the questions raised in Energiavirasto’s request. In its response of 28 March 2018, the services of the Directorate-General for Energy welcomed the signature of the cooperation agreement, which was announced on 9 March 2018, as a solution to overcome the initial disagreement between the Nordic TSOs and therefore questioned whether Energiavirasto still had an interest to maintain its original request. The services of the Directorate-General for Energy also stated that, if the request were maintained, all questions would have a straightforward legal answer and leave essentially little – if any – scope for legal interpretation. They indicated that, in such a case, they would agree with the Agency’s conclusions as set out below and that the Directorate-General for Competition endorsed those positions.
6. Assessment

6.1 General remarks

(23) According to Article 288 TFEU, a regulation shall have general application and shall be binding in its entirety and directly applicable in all Member States. It is automatically applicable in all Member States as soon as it enters into force and must be complied with fully by those to whom it applies. Therefore, also Regulation (EU) 2017/1485 and its requirements are directly applicable in all EU Member States and binding in their entirety. The TSOs to which Regulation (EU) 2017/1485 is addressed are bound by the obligations under this Regulation.

(24) In accordance with Article 52 TFEU and Article 355 TFEU, Regulation (EU) 2017/1485 applies in the territory of EU Member States. Article 13 of Regulation (EU) 2017/1485 allows to extend the application of the Regulation also to TSOs of non-EU Member States through the conclusion of an agreement between Union TSOs and third country TSOs of a synchronous area which sets the basis for their cooperation concerning secure system operation and sets out arrangements for the compliance of the third country TSOs with the obligations set in Regulation (EU) 2017/1485. Given the direct applicability and binding nature of Regulation (EU) 2017/1485, such an agreement cannot affect the effectiveness of obligations under that Regulation with regard to Union TSOs.

(25) The ‘Third Energy Market Package’, on which Regulation (EU) 2017/1485 is based, has been incorporated in the European Economic Area (EEA) Agreement. The Norwegian Parliament agreed to the transposition of the ‘Third Energy Market Package’ into Norwegian law on 22 March 2018. However, by the date of this Opinion, this transposition, including the transposition of Regulation (EU) 2017/1485, has not been fully completed.

(26) Regulation (EU) 2017/1485 aims at determining common load-frequency control processes and control structures through a stepwise approach. As a first step, Article 6(3)(g) and Article 141(2) of Regulation (EU) 2017/1485 provide for the development by the TSOs of a common proposal per synchronous area for the determination of LFC blocks and the approval of this proposal by all regulatory authorities of the synchronous area. Next, Article 118(1) and Article 119(1) of Regulation (EU) 2017/1485 require the development by the TSOs of a number of proposals for terms and conditions or methodologies concerning the synchronous area operational agreement and LFC block operational agreement, respectively. The latter proposals include several terms and conditions or methodologies closely related to the determination of LFC blocks. Therefore, the regulatory authorities’ approval of the proposal for the determination of LFC blocks affects the implementation of Article 118(1) and Article 119(1) of Regulation (EU) 2017/1485. As a result, TSOs need to await the regulatory authorities’ approval of the LFC block proposal under Article 141(2) of Regulation (EU) 2017/1485 before they can finalise the proposals of terms and conditions or methodologies in accordance with Article 118(1) and Article 119(1) of Regulation (EU) 2017/1485.
6.2 Can the TSOs effectively agree to deviate from or add preconditions to the TSO decision-making provisions set in Article 5 of Regulation (EU) 2017/1485?

(27) Article 5 of Regulation (EU) 2017/1485 lays down rules for decision-making on proposals for terms and conditions or methodologies which need to be developed and agreed by more than one TSO. For instance, according to Article 5(7) of Regulation (EU) 2017/1485, the TSOs shall decide by consensus where a proposal for terms and conditions or methodologies in accordance with Article 6(3) of that Regulation concerns regions composed of five Member States or less.

(28) Those decision-making rules are directly applicable and binding for TSOs.

(29) Therefore, TSOs cannot deviate from the decision-making rules of Article 5 of Regulation (EU) 2017/1485 or add preconditions which affect the effectiveness of those decision-making rules by simply agreeing on such a deviation or addition.

6.3 If a TSO agreed to a contract in contradiction to the provisions set in Article 5 of Regulation (EU) 2017/1485, would this be considered as a breach of that Regulation?

(30) Since the decision-making rules of Article 5(3) to (8) of Regulation (EU) 2017/1485 are directly applicable and binding on TSOs, a contract between TSOs which contradicts those decision-making rules would be in conflict with Regulation (EU) 2017/1485.

6.4 Can a non-EU party, Statnett, be granted contractual veto power on the effective implementation of EU regulations?

(31) As Regulation (EU) 2017/1485 is directly applicable in all EU Member States and binding in its entirety, the TSOs to which Regulation (EU) 2017/1485 applies may not refrain from taking the required implementing acts on the ground that they granted a power of veto against this implementation to a TSO which is not subject to Regulation (EU) 2017/1485.

(32) Being the TSO of a third country and not of an EU-Member State, Statnett would only be subject to Regulation (EU) 2017/1485 if Norway had transposed Regulation (EU) 2017/1485 effectively under the EEA Agreement. While the transposition of the Third Energy Package into Norwegian law is almost completed, the process of transposition of Regulation (EU) 2017/1485 and other Network Codes and Guidelines into the EEA Agreement and into Norwegian law is ongoing and not finished.

(33) Under those circumstances, Union TSOs cannot effectively grant Statnett, as a third country TSO, a ‘contractual’ power of veto against their implementation of Regulation (EU) 2017/1485, thereby deviating from the decision-making system provided for in Regulation (EU) 2017/1485.
6.5 Is the described governance structure with voting rules that has been agreed by Statnett, Svenska kraftnät and Energinet and proposed to Fingrid in line with the provisions of Regulation (EU) 2017/1485?

(34) According to Article 5(7) of Regulation (EU) 2017/1485, the TSOs shall decide by consensus where a proposal for terms and conditions or methodologies in accordance with Article 6(3) of that Regulation concerns regions composed of five Member States or less.

(35) The common proposal for the determination of the LFC blocks within the Nordic synchronous area according to Article 141(2) of Regulation (EU) 2017/1485 falls under Article 6(3)(g) of Regulation (EU) 2017/1485 and concerns three EU Member States – Denmark, Finland and Sweden – as well as an EEA member – Norway. As such, this proposal involves less than five Member States (even if, following the adoption of the Third Energy Package by Norway, the latter were to be considered equivalent to a Member State).

(36) Therefore, according to Article 5(7) of Regulation (EU) 2017/1485, the TSOs subject to this Regulation need to reach a consensus on the proposal for the determination of the LFC blocks within the Nordic synchronous area.

(37) In the Agency’s understanding, the governance structure originally proposed to Fingrid for the cooperation among TSOs with regard to the development and submission of the common proposal for the determination of the LFC blocks within the Nordic synchronous area was based on majority voting. Majority voting, by definition, does not ensure that TSOs decide on the basis of consensus.

(38) Therefore, a governance structure of the cooperation between TSOs which provides for majority voting on the common proposal for the determination of the LFC blocks within the Nordic synchronous area according to Article 141(2) of Regulation (EU) 2017/1485 would not be in line with Article 5(7) of Regulation (EU) 2017/1485.

6.6 Can the TSOs set prerequisites outside the scope of Regulation (EU) 2017/1485 for complying with the obligations set in Regulation (EU) 2017/1485? For example, can the TSOs abstain from submitting the LFC block proposal to the NRAs before contractual agreements that are not recognised in Regulation (EU) 2017/1485 are made?

(39) Since Regulation (EU) 2017/1485 is directly applicable and binding in its entirety, TSOs must comply with their obligations under that Regulation and cannot make their compliance with directly applicable and binding provisions of that Regulation dependent upon conditions that have not been recognised by that Regulation or other relevant EU law provisions.

(40) Consequently, TSOs may not abstain from submitting the LFC block proposal on the ground that agreements not recognised by law as a perquisite for the LFC block proposal have not yet been concluded. Agreements which go beyond the proposal for the determination of LFC

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blocks – because they deal with e.g. terms and conditions or methodologies concerning the synchronous area operational agreement, the LFC block operational agreement or the use of balancing products – should not obstruct the submission of the LFC blocks’ proposal.

6.7 Can the TSOs ignore the deadlines for submitting a proposal to the NRAs for approval set in Regulation (EU) 2017/1485 and effectively agree to follow another process set by themselves?

(41) According to Article 5(1) of Regulation (EU) 2017/1485, TSOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the competent regulatory authorities in accordance with Article 6 of the Regulation within the respective deadlines set out in the Regulation.

(42) To that end, Regulation (EU) 2017/1485 defines fixed deadlines within which TSOs shall submit various proposals for terms and conditions or methodologies to the competent regulatory authorities for approval. For instance, according to Article 141(2) of Regulation (EU) 2017/1485, all TSOs of a synchronous area shall jointly develop a common proposal regarding the determination of the LFC blocks by 4 months after entry into force of the Regulation, i.e. by 14 January 2018.

(43) The fixed deadlines for the submission of the proposals for terms and conditions or methodologies are directly applicable and binding for TSOs.

(44) Therefore, TSOs cannot disregard the fixed deadlines under Regulation (EU) 2017/1485 by agreeing to follow another process.

6.8 If TSOs failed to submit a proposal for terms and conditions or methodologies to the competent regulatory authorities within the deadlines defined in Regulation (EU) 2017/1485, but chose not to provide the competent regulatory authorities and the Agency with the relevant drafts of the terms and conditions or methodologies as well as an explanation why an agreement has not been reached, would this be considered as a breach of that Regulation?

(45) According to Article 5(9) of Regulation (EU) 2017/1485, where TSOs fail to submit a proposal for terms and conditions or methodologies to the regulatory authorities in accordance with Article 6(2) and (3) of Regulation (EU) 2017/1485 or to the entities designated by the Member States in accordance with Article 6(4) of the same Regulation within the deadlines defined in that Regulation, they shall provide the competent regulatory authorities and the Agency with the relevant drafts of the terms and conditions or methodologies, and explain why an agreement has not been reached.

(46) Therefore, in case of failure to submit a proposal for terms and conditions or methodologies to the competent regulatory authorities in accordance with Article 6 of Regulation (EU) 2017/1485 within the deadlines defined in that Regulation, TSOs would breach Article 5(9)
of Regulation (EU) 2017/1485 if they chose not to provide the competent regulatory authorities and the Agency with the relevant drafts of the terms and conditions or methodologies and the explanation why an agreement has not been reached.

7. Conclusion

(47) The provisions of Article 5 and Article 141(2) of Regulation (EU) 2017/1485 on the TSOs’ decision-making concerning the common proposal for the determination of the LFC blocks within the Nordic synchronous area and on the TSOs’ submission of this proposal are directly applicable and binding. The TSOs cannot disregard the respective requirements by simply deciding to make compliance with those requirements subject to conditions or procedures not recognised by the law. If the TSOs fail to submit the common proposal for the determination of the LFC blocks for the Nordic synchronous area within the required deadline, they have to inform the competent regulatory authorities and the Agency in accordance with Article 5(9) of Regulation (EU) 2017/1485.

HAS ADOPTED THIS OPINION:

Article 5 and Article 141(2) of Regulation (EU) 2017/1485 can be interpreted to the effect that:

1. TSOs cannot deviate from the decision-making rules of Article 5 of Regulation (EU) 2017/1485 or add preconditions which affect the effectiveness of those decision-making rules by simply agreeing on such a deviation or addition.


3. Union TSOs cannot effectively grant to Statnett, as a third country TSO to which the decision-making process of Article 5 of Regulation (EU) 2017/1485 does not yet apply, a contractual power of veto against the Union TSOs’ implementation of Regulation (EU) 2017/1485.

4. A governance structure of the cooperation between TSOs which provides for majority voting on the common proposal for the determination of the LFC blocks within the Nordic synchronous area according to Article 141(2) of Regulation (EU) 2017/1485 would not be in line with Article 5(7) of Regulation (EU) 2017/1485.

5. TSOs cannot make their compliance with Regulation (EU) 2017/1485 dependent upon conditions that have not been recognised by that Regulation or other relevant EU law provisions, and they may not abstain from submitting the LFC blocks’ proposal according to Article 141(2) of Regulation (EU) 2017/1485 on the ground that agreements have not been concluded yet which are not recognised by law as a perquisite for the LFC blocks’ proposal.
6. TSOs cannot disregard the fixed deadlines under Regulation (EU) 2017/1485 for the submission of the proposals for terms and conditions or methodologies by agreeing to follow another process.

7. If TSOs failed to submit a proposal for terms and conditions or methodologies to the competent regulatory authorities in accordance with Article 6 of Regulation (EU) 2017/1485 within the deadlines defined in that Regulation and nevertheless chose not to provide the competent regulatory authorities and the Agency with the relevant drafts of the terms and conditions or methodologies and the explanation why an agreement has not been reached, they would breach Article 5(9) of Regulation (EU) 2017/1485.

Done at Ljubljana on 19 April 2018.

For the Agency:

Alberto Pototschnig
Director