



European Union Agency for the Cooperation  
of Energy Regulators

# Use of Congestion Income 2021 ACER Monitoring Report

11 October 2022



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## Executive Summary

Regulation (EU) 2019/943 (hereinafter: 'the Regulation') introduced an obligation for national regulatory authorities ('NRAs') to further report to ACER on the use of congestion income, expanding their former reporting obligations pursuant to point 6.5 of Annex (I) of Regulation (EC) 714/2009.

Article 19(3) of Regulation, in particular, allows NRAs to take into account congestion income ('CI') as an income when calculating network tariffs, only if the available CI was used adequately on the specific objectives ('Priority Objectives') set out in Article 19(2) of the same Regulation. In that respect, NRAs have to provide their assessment of this adequate fulfilment in their use of CI report.

In line with ACER's duties to monitor the internal electricity markets, as well as the implementation of the projects of common interest ('PCIs'), the Union-wide network development plans ('EU TYNDP') and other projects which create new interconnector capacity, and in order to contribute to the goal set out in recital (41) of the Regulation, i.e. to avoid lack of prioritisation of necessary interconnection projects at national level, ACER prepared this monitoring report on the use of congestion income in the EU in 2021 and evaluates the evidence provided by the NRAs which used CI for reducing network tariffs to demonstrate that the Priority Objectives were fulfilled.

2021, especially in its second semester, experienced the start of an energy crisis, which significantly impacted the functioning of the electricity market in Europe. Important price differences between bidding zones combined with an increase of electricity trade resulted in a rapid increase of CI collected by TSOs. In such a difficult context, monitoring the use of this CI - and in particular the fact that this CI is actually used to fulfil the Priority Objectives set in the Regulation - becomes all the more important as these Priority Objectives all aim to facilitate the energy transition.

In summary, the total available CI in 2021 amounts to 6.9 billion Euros. Out of these, 4.9 billion Euros were collected by 23 Member States during 2021 (the highest amounts were collected in Sweden, Germany and France, exceeding 400 million Euros in each territory), and 2 billion Euros were already saved in the separate account before 2021 (more than half of which was in Sweden and in the Netherlands). The collected CI at MS-MS borders increased by 104% in 2021 compared to 2020<sup>1</sup>. The available CI was used or saved in 2021 as follows:

- 3.1 billion Euros (45%) were used on the Priority Objectives;
- 3.4 billion Euros (49%) were saved in a separate internal account;
- 342 million Euros (5%) were used for tariff reduction;
- 89 million Euros (1%) were paid on taxes<sup>2</sup>

ACER welcomes the fact that the amount of CI used for Priority Objectives or saved for future Priority Objectives-related use increased from 88% in 2020 to 95% in 2021, and that the share of CI used for tariff reduction compared to the available CI in 2020 was reduced from 12% to 5% in 2021. These figures show an increasing use to fulfil the priority objectives stipulated in Article 19 of the Regulation.

Regarding the CI used for tariff reduction, 11 NRAs indicated that they used in 2021 at least part of the available CI for this purpose: BG, ES, DK, FR, GR, HU, NL, PT, SI, SE and SK.

For the NRAs which used CI for reducing network tariffs, ACER evaluated the actions taken by the NRAs to fulfil the priority objectives of Article 19(2) of the Regulation, i.e. to a) guarantee firmness of the allocated capacity and maintain cross-zonal capacities, and b) cover the costs of network investments that reduce interconnector congestion, considering also the ACER conclusions from the

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<sup>1</sup> The total amount of reported collected CI increased by €3.4 billion (221 %) from €1.5 billion reported as collected CI in 2020 at EU-EU bidding zone borders. Nevertheless, the main driver of this drastic increase is the CI collected from internal Bidding Zone (BZ) borders (not reported in last year's reports) in Sweden (€1704 mil) and Italy (€71.9 mil). Excluding the CI collected on internal Swedish and Italian BZ borders, the increase of the CI compared to 2020 is around 1.6 billion Euros (104%).

<sup>2</sup> In some countries taxation on the amounts saved in the separate account is foreseen pursuant to national laws.

“Report on the result of monitoring the margin available for cross-zonal electricity trade in the EU in 2021”.

ACER concludes that the Priority Objectives cannot be deemed fulfilled for five countries, i.e. for BG, ES, GR, HU, and SI, and for the future these countries should either put more effort towards the fulfilment of the 70% binding target by using the available CI to achieve their interconnection capacity targets, and/ or intensify their efforts to plan and properly implement network investments that increase cross-border capacity, as the data available in the EU TYNDP 2020 shows a need for more capacity at some of their borders, on which available CI can be used. The CI used for tariff reductions in 2021 in the aforementioned five countries amounts to 240 million Euros (representing around 70% of the CI used for this purpose across EU).

ACER acknowledges the challenging energy environment and the NRAs’ efforts to keep tariffs at affordable levels for European electricity system users and in certain cases to use congestion revenues for financing emergency measures targeting consumers at risk<sup>3</sup>. Nevertheless, ACER emphasises that increased interconnection capacities between Member States are crucial for EU not only to meet its continuously more ambitious energy objectives, but to also successfully handle the new challenges imposed by the recent energy crisis, including their beneficial effect on reducing price volatility, as pointed out in the ACER’s assessment of the EU Wholesale Electricity Market Design<sup>4</sup>. Indeed, acceleration of key interconnections in the electricity grid is one of the measures proposed by REPowerEU, the European Commission’s plan for energy independence from Russia<sup>5</sup>. Considering the above, ACER urges all NRAs to make full use of the CI available to them to best conform to the Regulation stipulation with regard to the use of CI.

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<sup>3</sup> For the duly justified cases mentioned in page 7, section 3.c, of the EC Communication COM (2022) 236 “Short-Term Energy Market Interventions and Long Term Improvements to the Electricity Market Design – a course for action”

<sup>4</sup>

<https://www.acer.europa.eu/sites/default/files/documents/Publications/ACER%26%23039%3Bs%20Final%20Assessment%20of%20the%20EU%20Wholesale%20Electricity%20Market%20Design.pdf>

<sup>5</sup> Under the 2<sup>nd</sup> pillar of the plan “diversification of suppliers for conventional (fossil) fuel imports whilst future-proofing the corresponding infrastructure”.

# 1. Introduction

- 1 Recital (41) of Regulation (EU) 2019/943<sup>6</sup> states that to better ensure optimal investment in the trans-European grid and to better address the challenge where viable interconnection projects cannot be built for lack of prioritisation at national level, the use of congestion rents should be reconsidered. Regulation (EU) 2019/943 (hereinafter: 'the Regulation') introduced an obligation for national regulatory authorities ('NRAs') to further report to ACER on the use of congestion income ('CI'), expanding their former reporting obligations pursuant to point 6.5 of Annex (I) of Regulation (EC) 714/2009<sup>7</sup>.
- 2 According to Article 19(2) of the Regulation, revenues resulting from the allocation of cross-zonal capacity shall be used to fulfil specific objectives (so-called Priority Objectives). Paragraphs (a) and (b) of that Article define them as:
  - guaranteeing the actual availability of the allocated capacity including firmness compensation; or
  - maintaining or increasing cross-zonal capacities through optimisation of the usage of existing interconnectors by means of coordinated remedial actions, where applicable, or covering costs resulting from network investments that are relevant to reduce interconnector congestion.
- 3 Article 19(3) of the Regulation allows NRAs to take into account congestion revenues as an income when approving the methodology for calculating network tariffs or fixing network tariffs, only if the objectives set out in Article 19(2) of the same Regulation ('Priority Objectives') are adequately fulfilled.
- 4 The use of CI in accordance with these objectives is subject to a methodology proposed by the transmission system operators ('UCI Methodology'), which was approved by ACER in December 2020<sup>8</sup>. As the assessment of the adequate fulfilment of the Priority Objectives depends on the observed time-window and the assessment is affected by the uncertainties of the future needs of new interconnection capacity, ACER, with its Recommendation No 1/2020<sup>9</sup>, provided guidance to NRAs in order to promote consistent implementation of the Regulation among the NRAs. For NRAs' 2022 reports, which cover CI of the year 2021, ACER recommended that the Priority Objectives should be deemed as adequately fulfilled, if, in the previous year (i.e. 2021), it could be proved that it was not possible to efficiently use a higher amount of congestion income on the Priority Objectives.
- 5 In order to enable NRAs to provide the required data and information in a consistent way, ACER included an online template in the ACER's Market Monitoring exercise to collect NRAs' reports. Also, ACER organised a webinar in February 2022, where the template of the UCI report 2022 was presented and NRAs' questions were discussed and further clarifications were provided. Also, further guidance was provided to the NRAs before the submission of their report regarding the scope of their report.
- 6 In line with ACER's duties to monitor the internal electricity markets, as well as the implementation of the projects of common interest ('PCI'), the Union-wide network development plans ('EU TYNDP') and other projects which create new interconnector capacity, and in order to contribute to the goal set out in recital (41) of the Regulation, and specifically to avoid lack of prioritisation of necessary interconnection projects at national level, ACER prepared this monitoring report on the use of

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<sup>6</sup> OJ L 158, 14.6.2019, p.84.

<sup>7</sup> Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 (OJ) L 211, 14.8.2009, p.15).

<sup>8</sup> ACER decision No 38/2020 on the methodology for the use of CI  
[https://documents.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Individual%20decisions/ACER%20Decision%2038-2020%20on%20use%20of%20Congestion%20Income%20methodology.pdf](https://documents.acer.europa.eu/Official_documents/Acts_of_the_Agency/Individual%20decisions/ACER%20Decision%2038-2020%20on%20use%20of%20Congestion%20Income%20methodology.pdf)

<sup>9</sup>  
[https://documents.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Recommendations/ACER%20Recommendation%2001-2020%20to%20NRAs%20on%20Use%20of%20Congestion%20Income%20methodology.pdf](https://documents.acer.europa.eu/Official_documents/Acts_of_the_Agency/Recommendations/ACER%20Recommendation%2001-2020%20to%20NRAs%20on%20Use%20of%20Congestion%20Income%20methodology.pdf)



congestion income in the EU in 2021, including an evaluation of the provided evidence regarding the fulfilment of the Priority Objectives.

- 7 In this report ACER presents the data received by 23 NRAs, including the data on the collected CI and the CI collected per bidding zone border for each country (Annex 1), and how CI was used. It also presents in summary the NRAs' assessment of the adequate fulfilment of Priority Objectives (Annex 2), some information on the completeness and consistency of submitted data (Annex 3) and evaluates the evidence provided by the NRAs which used CI for reducing network tariffs to demonstrate that the Priority Objectives were fulfilled.
- 8 It is noted that where comparisons with 2020 data are provided some adjustments are needed to bring the 2020 data on equal footing with the 2021 data. This is necessary because 2020 was the first reporting round under the new Regulation and the ACER Recommendation, and it was not yet made possible to provide common reporting requirements for all aspects of the report. Specifically, for the 2020 CI some NRAs included in their reports also the CI collected at non-EU Bidding Zone (BZ) borders, and in some other cases the CI collected at internal BZ borders was left out. Wherever there is consideration of the CI collected or saved in 2020, only CI collected at MS-MS borders is taken into account, by excluding CI collected at a border between EU and non-EU areas (in the case of collected CI) and by applying appropriate coefficients (in the case of saved CI, as explained in detail in recital 16).

## 2. Completeness and quality of the submitted reports

### 2.1 Fulfilment of the reporting obligation

- 9 According to Article 19(5) of the Regulation NRAs should submit to ACER a report on the use of congestion income ('NRAs Report') by 1 March each year. Cyprus, Luxembourg and Malta were not required to submit a report in lack of congestion income collected in their territory, while Ireland collected CI pertaining only to a border with a non-EU country, therefore this data is not subject to the Regulation reporting obligation.
- 10 All 23 NRAs submitted a report regarding the use of CI in 2021, although many of them after the 1 March 2022 deadline. ACER stresses NRAs' legal obligation to inform ACER annually by 1st March on the data and information included in Article 19.5 of the Regulation, by providing consistent, clear and complete information.

### 2.2 Completeness, consistency and quality of the submitted data

- 11 A validation process was followed by ACER in order to improve the completeness and consistency of the initially submitted NRAs Reports according to the ACER Recommendation No 1/2020. After the NRAs provided the requested by ACER missing data and clarifications, the completeness and consistency of the information was improved to a great extent.
- 12 Also, the completeness of the NRAs reports improved compared to the previous year, due to the improved completeness of the information included in their Multi Year Estimate (MYE). Details on the missing information and inconsistencies identified by ACER are provided in Annex 3.



### 3. Collected congestion income

13 In compliance with ACER Recommendation No 1/2020, NRAs provided the following data regarding the collected CI at EU-EU bidding zone borders:

- the amount of CI collected in the previous year (2021);
- the amount of CI saved in a separate internal account line from years before the previous one; and
- the adjustment of CI of previous year due to provisional data.

The provided data is presented in Table 1 below (IE is not included in the table as all its CI was collected at a border with non-EU area).

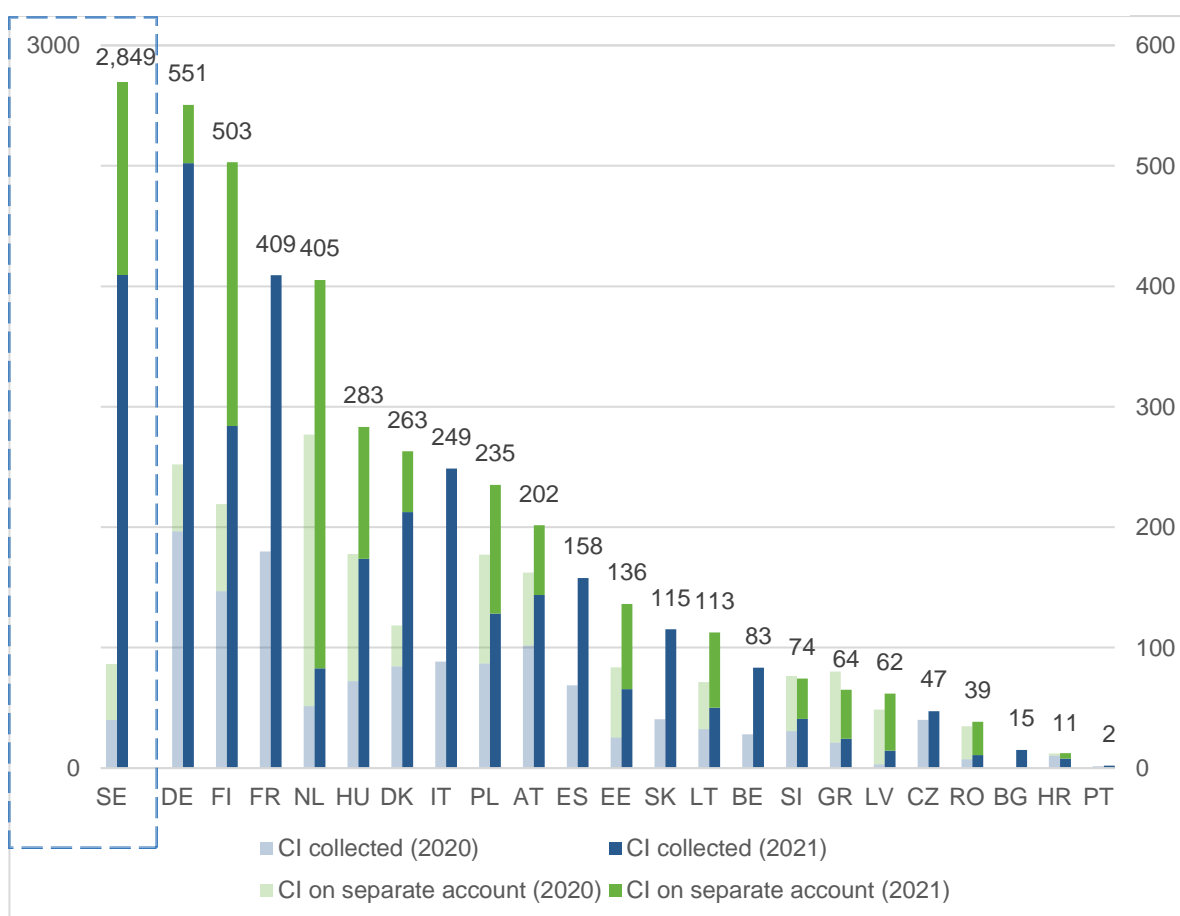
Table 1. Overview of the available CI for 2021

MS	CI collected in 2021 (mil EUR)	Start-of-year separate account balance (2021) (mil EUR)	Adjustment of CI of previous year due to provisional data (mil EUR)
AT	143.59	57.95	0
BE	83.30	0	0
BG	15.16	0	0
CZ	47.3	0	0
DE	502.3	48.29	0
DK	212.6	50.3	0
EE	65.5	70.8	0
ES	157.8	0	0
FI	284	219	0
FR	409.1	0	0
GR	24.34	40.6	-0.7
HR	8.02	4.36	-1.51
HU	173.79	109.39	0
IT	248.80	0	0
LT	50.1	62.5	0
LV	14.59	47.22	0
NL	82.8	322.3	0
PL	128.34	106.65	0
PT	2.14	0	0

RO	10.81	27.69	0
SE	2,048	801	0
SI	40.9	33.4	0
SK	115.14	0	0
<b>Sum</b>	<b>4868.42</b>	<b>2001.45</b>	<b>-2.21</b>

- 14 In 2021, the total available CI (i.e. the sum of the collected CI and the CI saved in the separate account at the start of year 2021) amounted to around €6.9 billion. Compared to 2020 (€2.7 bil), this amounts to an increase of 157%. Nevertheless, the main driver of this drastic increase is the CI collected at internal Biding Zone (BZ) borders in Sweden (€1.7 bil), as the 2020 Sweden report did not include this source of CI. In addition, it has to be noted that CI collected at borders with non-EU area was included in the data for 2020 for some countries, and for this reason adjustments had to be made to the 2020 data in order to make the amounts comparable, as explained in recital 16 below.
- 15 In Figure 1 below, the comparison of the total available congestion income in 2021 per MS versus 2020 is presented.

Figure 1: Available CI per MS (in € mil) – comparison of 2021 vs 2020



Note 1: Sweden is displayed on the left at a different scale, due to its relatively high values compared to the other countries.

Note 2: The "0" value for 2020 CI for Bulgaria is because this data is either not available or not consistent

Note 3: The available CI includes an adjustment of CI of the previous year due to provisional data in the cases of Croatia and Greece, as mentioned in Table 1.

- 16 Note: Ten countries included CI collected at a border with non-EU area in their UCI 2020 reports. For reasons of comparability, in the above graph the CI collected at borders with non-EU area was deducted for the 2020 data. Furthermore, the CI saved in a separate account in 2020 presented in the above graph is estimated for these countries using a coefficient. Greece provided a coefficient of 58% of the total CI amount being used for MS-MS borders (average of the years 2019-2021). For the remaining countries, the coefficient<sup>10</sup> used for the 2020 data is calculated by the quotient of CI collected at EU-EU bidding zone borders divided by the total CI collected for the data of 2020.

The same coefficient will be applied also to the expenditure data of 2020 in chapter 4 below in order to make the 2020 and 2021 data comparable.

### 3.1 Congestion income collected in 2021

- 17 The aggregate CI collected makes up around 70% of the aggregate available CI. In 2021, a total of €4.9 billion of CI was collected at EU-EU bidding zone borders by 23<sup>11</sup> Member States.
- 18 As can be seen in Figure 1 and Table1, the highest amounts of CI in 2021 were collected in Sweden, Germany and France, exceeding €400 million in each Member State. The lowest amounts of CI were collected in Portugal (€2.14 mil), Croatia (€8.02 mil) and Romania (€10.81 mil).
- 19 Compared to 2020, the total amount of CI collected increased by €3.4 billion (221%) from €1.5 billion to €4.9 billion. Nevertheless, the main driver of this drastic increase is the inclusion in the 2022 reports of the CI collected at internal Biding Zone (BZ) borders (not reported in last year's NRAs Reports) in Sweden (€1704 mil) and Italy (€71.9 mil). Excluding the CI collected at internal Swedish and Italian BZ borders, the increase of the CI compared to 2020 is around 1.6 billion Euros (104%).
- 20 All countries except Croatia increased CI collected at EU-EU bidding zone borders compared to 2020, with Sweden<sup>12</sup> (924%) and Latvia (371%) recording the largest growth. Eleven countries collected more than twice of the amount of CI compared to the previous year.

### 3.2 Congestion income saved in a separate account

- 21 Besides the CI collected in 2021, several Member States had saved CI collected in years prior to 2021 in a separate account. The total amount of CI placed on a separate account was €2 billion on 31 December 2020.
- 22 In eight Member States (Belgium, Bulgaria, Czech Republic, France, Italy, Portugal, Slovakia and Spain) no CI from previous years was saved in a separate account. At the beginning of 2021, Sweden has saved the highest amount of congestion income (€801 mil), followed by the Netherlands<sup>13</sup> (€322 mil) and Finland (€219 mil).

<sup>10</sup> The coefficient "CI collected at EU-EU bidding zone borders / total collected CI at all borders" is calculated per country as follows: Croatia (10.22/13.71=0.75), Denmark (84.33/168.54=0.5), France (179.9/265.3=0.68), Germany (196.64/219.19=0.90), Greece (0.58 provided by the NRA), Hungary (72.17/78.67=0.92), the Netherlands (51.37/107.03=0.48), Romania (7.28/9.97=0.73), Sweden (199.9/273.8=0.73), Slovakia (40.7/40.91=0.995)

It is assumed that this ratio remains constant over the years, so it can be applied also for amounts collected and saved in a separate account in the previous years.

<sup>11</sup> Cyprus, Luxemburg and Malta were excluded as they did not collect CI in their territory, and Ireland was excluded as no congestion income was collected at MS-MS borders.

<sup>12</sup> The drastic increase to the collected CI in Sweden is due to reporting reasons, i.e. due to the fact the CI collected from internal Biding Zone (BZ) borders was included in 2021 CI (i.e. €1704 mil), but not in the 2020 CI. If accounting only the CI collected at BZ borders with other EU MSs, the increase is only 77% (from €200 mil to €353.4 mil).

<sup>13</sup> It is noted that this figure includes also CI from borders with non-EU area collected in previous years.

## 4. Use of the congestion income

23 In compliance with ACER Recommendation No 1/2020, NRAs provided the following data regarding the used CI:

- the amount of CI used for Priority Objectives in 2021;
- the amount of CI not used in 2021 and placed on a separate internal account line; and
- the amount of CI used for tariff reduction.

Also, the amount of CI paid for taxes on saved CI was reported, as in some countries taxation on the amounts saved in the separate account is foreseen pursuant to national laws

24 The provided data is presented in Table 2 below.

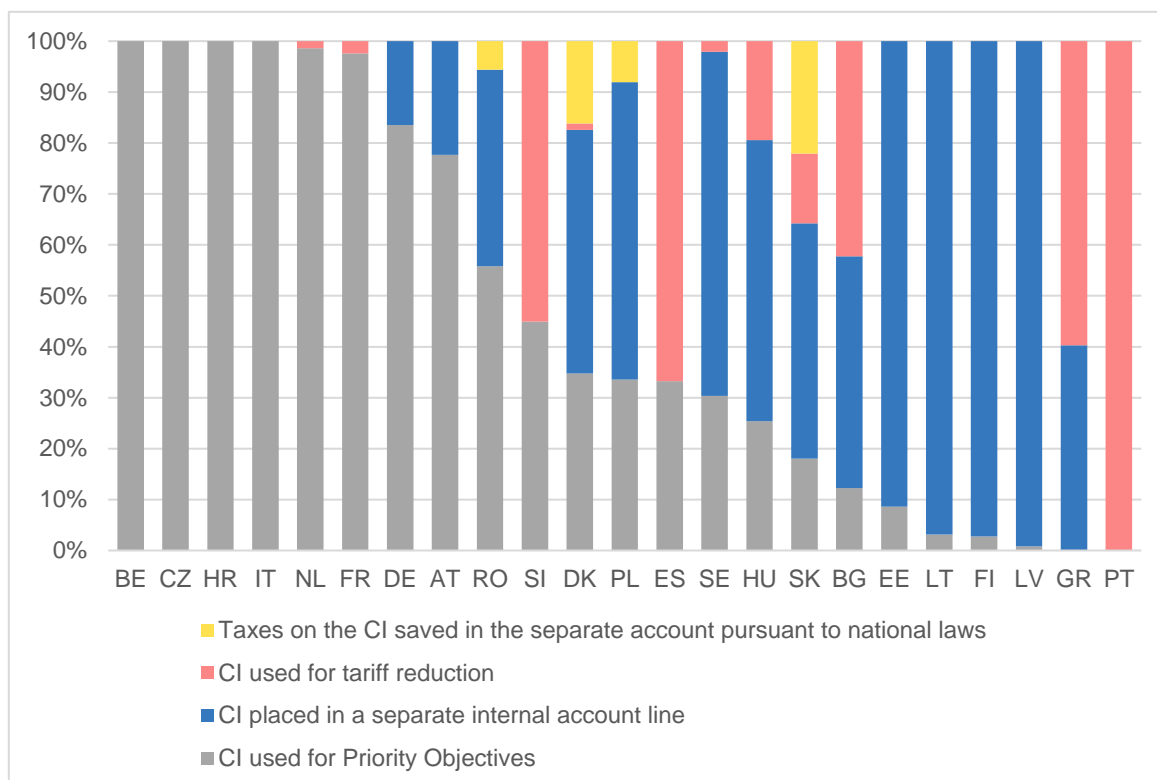
Table 2. Use of the congestion income in 2021

MS	CI used for Priority Objectives (mil EUR)	CI not used in the previous year and placed on a separate internal account line (mil EUR)	CI used for tariff reduction (mil EUR)	Taxes on saved CI
AT	156.56	44.98	0	0
BE	83.30	0	0	0
BG	1.86	6.90	6.40	0
CZ	47.3	0	0	0
DE	460	90.62	0	0
DK	91.4	125.7	3.3	42.5
EE	11.7	124.6	0	0
ES	52.42	0	105.38	0
FI	14	489	0	0
FR	399.2	0	9.9	0
GR	0.04	25.82	38.38	0
HR	10.87	0	0	0
HU	71.89	156.26	55.04	0
IT	248.80	0	0	0
LT	3.5	109	0	0
LV	0.5	61.31	0	0
NL	399.3	0	5.7	0

PL	78.85	137.26	0	18.89
PT	0	0	2.14	0
RO	21.71	15	0	2.18
SE	867.00	1,933	59.00	0
SI	33.4	0	40.9	0
SK	20.78	53.21	15.78	25.38
<b>Total</b>	<b>3074.38</b>	<b>3372.66</b>	<b>341.92</b>	<b>88.95</b>

- 25 A difference of around €10 million is detected when comparing the amount of available CI (€6.87 bil) versus the used or saved CI amount (€6.88 bil). This difference is caused by a discrepancy of €10 million between CI input and CI expenditure (including carry-over) in Sweden<sup>14</sup>.
- 26 Of the total amount of €6.88 billion CI used in 2021, around half was placed on a separate account (€3.4 bil), while €3.1 billion was used for Priority Objectives. Eleven countries used congestion income for tariff reduction at a total amount of €342 million.
- 27 Figure 2 below shows the composition of the use of CI per country.

Figure 2: Composition of use of CI per MS



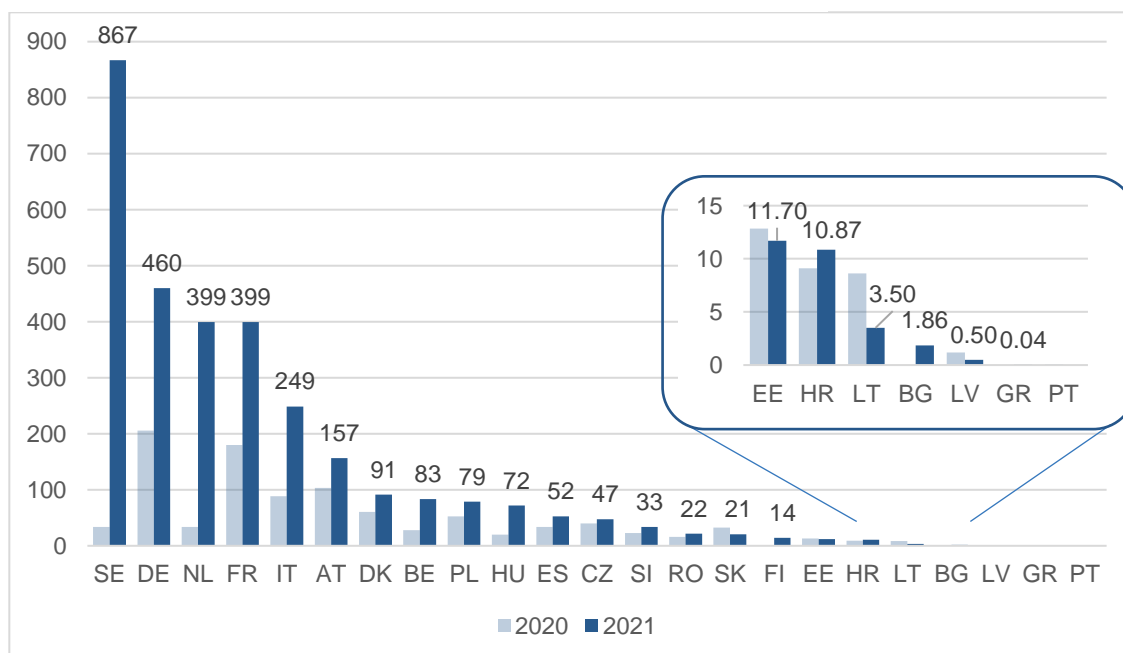
<sup>14</sup> This difference is due to the fact that, in the TSO's in advance communication to the NRA, only the CI from external borders was included, and it was hard to adjust the figures precisely to include also amounts from internal BZ borders for past years.

- 28 As shown in Figure 2, four countries (Belgium, Croatia, Czech Republic and Italy) used 100% of their CI on Priority Objectives. Portugal, on the other hand, used all of its available CI for tariff reduction.
- 29 In sections 4.1 - 4.3 below the different use of congestion income is described. It has to be noted that the 2020 data for some countries include expenditures of CI collected at borders with non-EU area. Therefore, for comparison reasons, the country coefficients described in recital 16 are applied also to the expenditure (and carry over) data of 2020 for the ten countries that included CI at borders with non-EU area in their 2020 CI reports.

### 4.1 Congestion income used for Priority Objectives

- 30 Figure 3 below illustrates the expenditures for the fulfilment of the Priority Objectives per Member State in 2021 compared to 2020. The highest amounts of CI spent for Priority Objectives in 2021 were reported in Sweden (taking into account CI collected at internal Bidding Zone borders), followed by Germany, the Netherlands and France. On the other hand, no CI was used for Priority Objectives in Portugal in 2021. Relatively small amounts were reported in Greece (€0.04 mil) and Latvia (€0.5 mil).
- 31 In general, the total amount of CI used for Priority Objectives increased by more than €2 billion (around 213%) compared to 2020 (although, as mentioned above, a large part of this increase is due to the fact that mainly in Sweden, but to a lesser extent also in Italy, last year's spending at internal borders was not included in the reports).
- 32 In total, 17 countries increased their spending on the Priority Objectives, and seven of them more than doubled their expenditure on this category. On the other hand, in five countries (i.e. Estonia, Latvia, Lithuania, Portugal<sup>15</sup> and Slovakia) the amount spent on Priority Objectives declined.

Figure 3: CI Used for Priority Objectives per MS (in € mil)



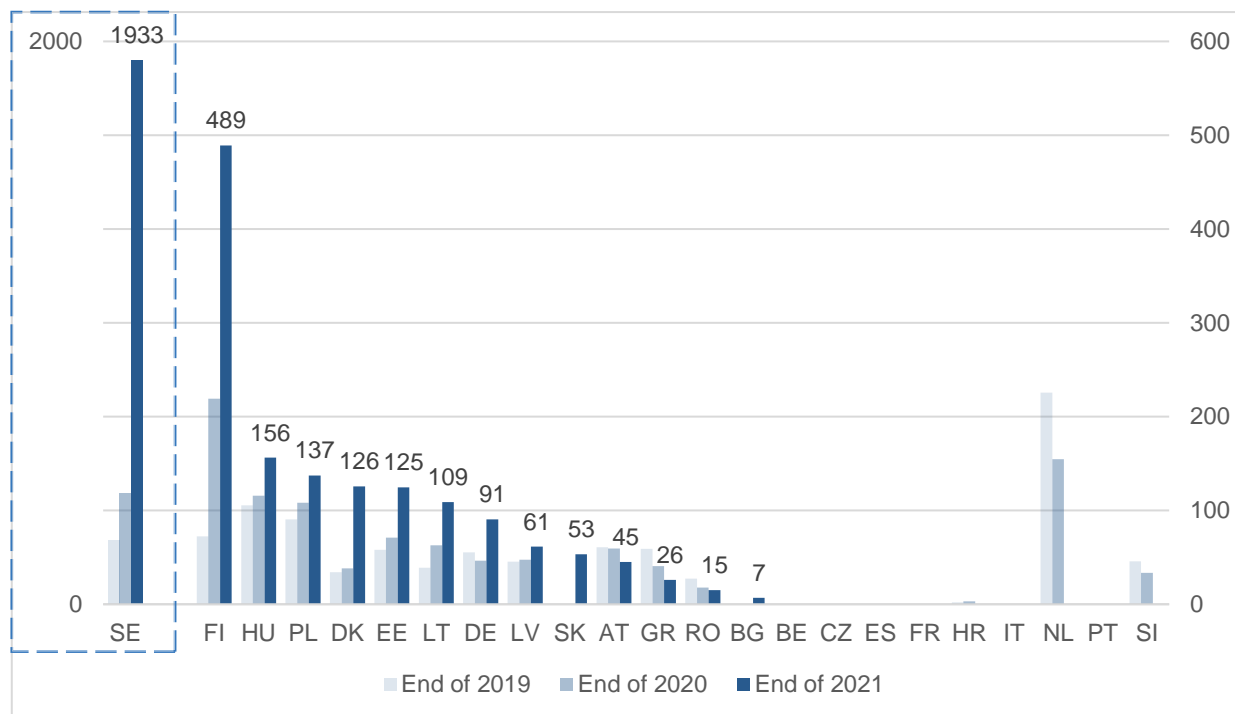
Note: The "0" value for 2020 CI for Bulgaria is because this data is either not available or not consistent

<sup>15</sup> Portugal used €0.1 million of congestion income for Priority Objectives in 2020, while none was used in 2021.

## 4.2 Evolution of the amount placed on a separate account

- 33 Figure 4 below presents how the amount saved in the separate internal account line evolved during the last three years per country.
- 34 Overall, the total amount of CI saved in a separate account is €3.37 billion at the end of 2021. Sweden (€1.9 bil) followed by Finland (€489 mil) recorded the highest amount of CI placed on a separate account. Nine countries, on the other hand, did not carry over congestion income.

Figure 4: Evolution of amount of CI saved in a separate account per MS (in € mil)



Note 1: The data labelled as “End of 2020” in the graph refers to the CI saved in a separate account from years before 2021 provided by the 2022 NRAs Reports (for the use of CI 2021) as it includes exclusively CI from at MS-MS borders. Likewise, the data labelled as “End of 2019” refers to the CI saved in a separate account from years before 2020 provided by the 2021 NRAs Reports (for the use of CI 2020).

Note 2: Since “End of 2019” data may include also CI collected at a border with non-EU area, the country coefficients, as explained in recital 16, were applied where appropriate.

Note 3: The data for Sweden is displayed on the left with a different scale due to its high values compared to the other countries.

Note 4: The “0” value for 2020 CI for Bulgaria is because this data is either not available or not consistent

- 35 In eight countries<sup>16</sup>, the total amount placed on a separate internal account line has continuously increased. In Austria, Greece, the Netherlands, Romania and Slovenia, on the other hand, the amount has decreased along time.

<sup>16</sup> Denmark, Estonia, Finland, Hungary, Lithuania, Latvia, Poland and Sweden



### 4.3 Evolution of CI used for tariff reduction

- 36 In 2021, 11 countries out of 23 used CI to reduce tariffs (in comparison: nine countries in 2020).
- 37 The total amount of CI used for tariff reduction in 2021 was €342 million. This amounts to an increase of €86 million (33%) compared to 2020.
- 38 Spain (€105 mil), followed by Sweden (€59 mil) and Hungary (€55 mil) spent the highest amount of CI for tariff reduction.
- 39 Seven countries increased their expenditure for tariff reduction. Compared to the previous year, Spain has the highest increase with additional €70 million. On the other hand, four countries decreased their expenditures. The Netherlands had the largest decrease by €82.8 million.

## 5. Assessment of the adequate fulfilment of the Priority Objectives

- 40 According to recital 3.2. of ACER Recommendation No 01/2020 “*For NRAs’ reports of years 2021 and 2022, ACER recommends that the Priority Objectives are deemed as adequately fulfilled, if in the previous year it proved not possible to efficiently use a higher amount of congestion income on the Priority Objectives.*” ACER also notes that according to Article 19 (3) of the Regulation only “*where the Priority Objectives set out in paragraph 2 have been adequately fulfilled*” the CI can be used for calculating network tariffs and/or fixing network tariffs. Therefore, NRAs had to provide a justification of the adequate fulfilment of the Priority Objectives in case they used in 2020 CI for network tariffs.
- 41 The NRAs of the following 11 countries indicated that they used in 2021 at least part of the available CI when setting tariffs: BG, DK, FR, ES, GR, HU, NL, PT, SI, SE and SK. The NRAs’ assessment of the adequate fulfilment of Priority is summarised in Annex 2.
- 42 Compared to last year’s report, the NRAs of 3 extra countries reported using CI when setting tariffs, i.e. BG, FR and SE, while the NRA of one country, RO, discontinued using CI for setting tariffs.
- 43 The NRAs of DK and SK mentioned that it was not possible to use efficiently a higher amount of congestion income on the Priority Objectives in 2021, but without providing further justification. Therefore, ACER notes lack of proof that the Priority Objectives were fulfilled in these cases.
- 44 Regarding the justification provided by the other NRAs regarding the adequate fulfilment of the Priority Objectives, ACER notes the following:
- a) **Actions taken by the NRAs to guarantee firmness of the allocated capacity and maintain cross-zonal capacities**
- 45 The SE NRA referred to its future plans to increase the availability of the interconnections (e.g. by increasing ten-fold countertrading and introducing dynamic reliability margins), but did not provide concrete justification of why the relevant priority objectives were deemed fulfilled for year 2021. In addition, ACER noted in its “*Report on the result of monitoring the margin available for cross-zonal electricity trade in the EU in 2021*”<sup>17</sup> that Sweden had not set any transitional target for the achievement of the minimum 70% target for its borders in 2021, which would have set a minimum ambition level. The Swedish TSO’s derogation request from the minimum 70% target for 2022 has been referred to ACER, being disputed by neighbouring NRAs and partially by the Swedish NRA. Major complains were related to chronic lack of redispatching and countertrading resources. Therefore, ACER notes lack of proof that the Priority Objectives regarding guaranteeing firmness of the allocated capacity and maintain cross-zonal capacities were fulfilled.
- 46 The NRAs of the remaining eight countries (BG, FR, ES, GR, HU, NL, PT, SI) presented the actions taken by the relevant TSOs and in some instances the specific spending on the priority objectives to guarantee the actual availability of the allocated capacity or maintain cross-zonal capacities in order to comply with the minimum 70% target or the transitional target defined (in case an action plan or a temporary derogation from this obligation has been granted). However, as indicated in the ACER “*Report on the result of monitoring the margin available for cross-zonal electricity trade in the EU in 2021*”, these TSOs did not always fully meet their obligations, or, in some occasion, no sufficient information was made available by TSOs to reach a conclusion. More specifically:
- a. For HU and NL the transitory target set was not always met (i.e. with AT, HR and SK, and within CWE, respectively). The NL TSO, however, declared that not meeting the transitional target was solely due to an error they made in their tooling, that they fixed in the last months of the year, and that they would have been able to meet their target, if not for this error.

<sup>17</sup> <https://www.acer.europa.eu/sites/default/files/documents/Publications/ACER%20MACZT%20Report%202021.pdf>

- b. For ES, FR and PT the minimum 70% target was reached most of the time for the SWE region, in line with the TSOs' derogation. Nonetheless, for a significant number of hours (between 10% and 21% of the hours), the TSOs' capacity calculation failed to identify the limiting element, thus not allowing to reach conclusion for these hours.
  - c. FR and SI had no derogation for 2021 (except FR on its border with ES, see previous point), i.e. the minimum 70% target already applied for 2021. Nonetheless, these two countries did not always meet the minimum 70% target. The same goes, to a lesser extent, for NL on its border with DK1.
  - d. Finally, it is to be noted that BG, GR (on its border with BG) and HU (at the *export direction for its four interconnected borders, as well as on the import direction for its border with RO*) had not set any transitional target in their derogation request from the minimum 70% target, thus no minimum target applied in 2021 for the concerned borders.
- 47 ACER reiterates its advice to TSOs and NRAs to ensure that the derogations include a transitional target on all borders covered. Such a target should allow to gradually increase the cross-zonal capacity offered to the market, with a view to meeting the minimum 70% target as soon as possible. In addition, the above eight countries need to proceed to concrete actions for using the CI to achieve their set target in 2022.

**b) Actions taken by the NRAs to cover the costs of network investments that reduce interconnector congestion**

- 48 Regarding the justification provided by the NRAs on why it was not possible to use a higher amount of CI to cover the costs resulting from network investments that are relevant to reduce interconnector congestion, the following arguments were presented:
- a) The interconnection projects are still under consideration, therefore there was no concrete project under development where CI could be used in 2021 (FR, GR, SI).
  - b) There are interconnection projects under development, which will incur costs for the network users after their completion in the future, so for 2021 there was no other project increasing interconnection capacity on which CI could have been spent (ES, FR, GR, HU, NL, PT, SE).
  - c) Costs resulting from network investments that are relevant to reduce interconnector congestion are not covered by CI, but by allowed tariff revenue, although part of the available CI in 2021 was used for setting the allowed tariff revenue, indirectly leading to financing these network investments through CI (NL).
  - d) In the current economic background of negative interest rates and bank account maintenance cost, it would be inefficient to save in a separate account, instead of using it for grid tariff reduction, having also in mind that there is no financial risk to cover future investment as the national regulation ensures financing of cross-border investments (ES).
  - e) The TSO with its transmission system does not cause cross-border congestions therefore it will not invest in new cross-border interconnectors or upgrade existing ones in the future; that is why it did not reserve funds for possible future investments (SI).
- 49 Regarding arguments under points (a) and (b) above, at first ACER notes that efficient interconnection projects (from a socio-economic perspective, i.e. benefit to cost comparison) are expected or are under study in these Member States, according to the information submitted by the NRAs. ACER is of the view that the lack of efficient projects under construction can only justify that no more CI could be spent in 2021 on projects increasing interconnection capacity in the respective countries. However, ACER deems that this, per se, does not mean that the priority objectives are fulfilled, as long as efficient projects are envisaged to be implemented in the coming years. This holds particularly true if the respective NRA accepts the need for further interconnection projects to reduce noted congestions on their borders. In ACER's view, lack of projects under construction does not constitute fulfilment of the Regulation criterion, as long as the need for increased capacity is still existent.

- 50 Regarding the argument under point (c) above, ACER reiterates its view that the Regulation is clear about the obligation to use the CI for the specific Priority Objectives mentioned in the Regulation. Although it is acknowledged that using either CI or tariffs for building efficient necessary infrastructure projects does not make any difference in substance, NRAs should still report which part of CI was used for the Priority Objectives, including for relative network investments, in order to be compliant with the Regulation. In the specific case of NL, ACER welcomes the alignment with the recommendation in the ACER last year's UCI Report and with the provisions of the Regulation, as it is noted that the reported CI used for Priority Objectives in 2021 was increased more than 5 times (from €70.3 mil to €399.3 mil), compared to 2020 and the respective CI used for setting tariffs was reduced by 97% (from €184.4 mil to €5.7 mil).
- 51 Regarding the argument under point (d) above, ACER notes that the applicable UCI methodology under art. 5.4 enables the TSOs to use option (b), i.e. use "*a separate internal account line for reporting purposes*", which allows a flexible use of the saved amounts versus using an actual account in the TSO's account book. Therefore, in ACER's view there is no issue of inefficiency in case CI is saved in the separate account.
- 52 Regarding the argument under point (e) above, ACER notes that this argument contradicts the fact that there is one project planned by the TSOs on the IT- SI border (project with EU TYNDP number 150), and also other projects are included in the EU TYNDP pertaining to the SI-HU and SI- AT borders, signalling the need for new capacity on these borders.
- 53 No clear justification was presented by BG regarding the fulfilment of this Priority Objective.
- 54 Taking into consideration the above, it is concluded that in principle none of the countries that used CI for tariffs in 2021 was able to provide sufficient evidence that all the Priority Objectives can be deemed fulfilled. Regarding the assessment of each of the country ACER notes the following:
- a. Regarding DK, FR, NL and SE, the CI used for tariffs setting was only a tiny percentage of the available CI, i.e. 1.2%, 2.4%, 1.4% and 2.1% respectively. Moreover, regarding NL, the CI used for tariffs is considerably reduced from €184 million in 2020 to €5.7 million, and is foreseen to be 0 next year. Regarding DK and SE, the provided expenditure in the MYE exceeds significantly the saved CI, so (if set targets are achieved) the fulfilment of the criterion next year can be confirmed by the NRA according to ACER Recommendation No 1/2020 in case CI is used for tariffs. Therefore, no substantial issue in the use of CI is identified for these countries.
  - b. Regarding PT, although all the collected CI was used for tariffs, the level of fulfilment of its 70% target obligations during 2021 is relatively high and the amount of collected CI is very low in absolute terms, €2.1 million, and, therefore, no substantial issue is identified.
  - c. Regarding SK, the CI used for tariff reduction is 14% compared to the collected CI, and a concrete yearly planning (MYE) regarding the future investment that will be implemented to reduce congestions was provided, so next year the set targets can be checked according to ACER Recommendation No 1/2020 in case CI is used for tariffs, therefore, no substantial issue is identified.
  - d. Regarding BG, ES, GR, HU, and SI:
    - the CI used for tariff reduction is a moderate part of the available CI regarding HU (19%), and a quite high percentage regarding BG, ES, GR and SI (i.e. 42%, 67%, 59%, and 55% respectively);
    - HU and SI did not always reach their imposed minimum levels of margin available for cross-zonal trade ("70% target obligations") during 2021, as analysed in recital 46 above; For BG and GR, although no minimum target were set by their respective derogations, the ultimate goal is that TSOs reach the 70% minimum target at all time (in spite of possible temporary derogations that have been granted to TSOs). To achieve this, there is significant room for improvement for BG and HU, and, to a lesser extent, some efforts will

also be needed from SI and GR, as described in the ACER specific reports on the 70% targets<sup>18</sup>.

- a need for new projects to reduce interconnection congestion is identified by ACER based on the EU TYNDP 2020 available data for ES, GR, HU, and SI, on which CI should be spent or saved (in case of projects not yet under implementation);
- a MYE was either not submitted by these countries or was not sufficient, therefore next year the NRAs will not be able to assess the fulfilment of the Priority Objectives criterion according to ACER Recommendation No 1/2020 in case CI is used for tariffs. More specifically, no MYE was provided by BG, ES and SI, while the MYE provided by GR does not cover all the amount saved in the separate account (only €11.8 mil out of €25.8 mil), and the MYE provided by HU includes only €3.5 million planned investments in the coming years, which cannot be deemed adequate.

For the above reasons, ACER concludes that the Priority Objectives cannot be deemed fulfilled for these countries.

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<sup>18</sup> Please see the ACER reports under <https://www.acer.europa.eu/electricity/market-monitoring-report/cross-zonal-capacity-70-target>

## Annex 1: Amount of congestion income in the previous year per border for each country

Table 3 below presents the data provided by the NRAs on the amounts of CI collected by border.

Table 3: Congestion income in 2021 per border for each country

Border between Bidding Zones (BZ)	Congestion income per border (million EUR)
<b>AT</b>	<b>164.57</b>
AT - CH	17.38
AT - CZ	12.1
AT - DE_LU	79.22
AT - HU	20.57
AT - IT_NORTH	9.6
AT - SI	22.1
Other <sup>19</sup>	3.6
<b>BE<sup>20</sup></b>	
BE - DE_LU	
BE - FR	
BE - GB	
BE - NL	
Other	
<b>BG</b>	<b>15.16</b>
BG - GR	11.51
BG - RO	3.65
<b>CZ</b>	<b>47.3</b>
CZ - AT	12.1
CZ - DE_LU	11.5
CZ - PL	9.1
CZ - SK	14.6
<b>DE</b>	<b>718.73</b>
DE_LU - AT	73.52
DE_LU - BE	15.81
DE_LU - CH	49.84
DE_LU - CZ	20.53
DE_LU - DK1+DK2	114.29
DE_LU - FR	37.98
DE_LU - NL	26.48

<sup>19</sup> ML Eneco Valcanale excluded

<sup>20</sup> Only CI resulting from Explicit Auctioning can be accurately reported per border. Revenues from the Implicit Auctioning, on the other hand, cannot be allocated per individual border. Therefore, the amounts of CI per border are left blank.

DE_LU - NO2	80.44
DE_LU - PL	40.27
DE_LU - SE4	86.16
Other <sup>21</sup>	173.43
<b>DK</b>	<b>324.3</b>
DK1 - DE_LU	60.8
DK2 - DE_LU	21.3
DK1 - DK2	24
DK1 - NL	33.1
DK1 - NO2	111.7
DK1 - SE3	41
DK2 - SE4	32.4
<b>EE</b>	<b>65.5</b>
EE - FI	62.7
EE - LV	2.8
<b>ES</b>	<b>157.8</b>
ES - FR	155.8
ES - PT	2
<b>FI</b>	<b>285</b>
FI - EE	63
FI - SE1	183
FI - SE3	39
<b>FR</b>	<b>409.1</b>
FR - ES	153
FR - IT_NORTH	133.4
Other <sup>22</sup>	122.7
<b>GR</b>	<b>40.6</b>
GR - BG	11.51
GR - IT_SOUTH	12.83
GR - MK	4.52
GR - TR	7.39
AL - GR	4.35
<b>HR</b>	<b>13.96</b>
HR - BA	3.03
HR - HU	4.89
HR - RS	2.91
HR - SI	3.13
<b>HU</b>	<b>182.81</b>
HU - AT	35.31
HU - HR	5.37
HU - RO	17.34

<sup>21</sup> DE\_LU-FR, DE\_LU-NL, DE\_LU-AT, DE\_LU-BE

<sup>22</sup> TERRE (Trans European Replacement Reserves Exchange) category is temporary until congestion revenues can be allocated by border (€2.9 mil) and CWE region (BE-FR + DE\_LU-FR: €119.8 mil)



HU - RS	9.01
HU - SK	115.77
HU - UA	0.01
<b>IE</b>	<b>28.5</b>
GB - SEM <sup>23</sup>	28.5
<b>IT</b>	<b>320.93</b>
IT_NORTH - AT	13.20
IT_NORTH - CH	66.18
IT_NORTH - FR	133.36
IT_SOUTH - GR	12.83
IT_NORTH - SI	17.56
Other <sup>24</sup>	77.80
<b>LT</b>	<b>50.1</b>
LT - LV	7.8
LT - PL	13.8
LT - SE4	28.5
<b>LV</b>	<b>14.59</b>
LV - EE	6.78
LV - LT	7.81
<b>NL</b>	<b>159.5</b>
NL - BE	22.5
NL - DE_LU	28.7
NL - DK1	32.6
NL - NO2	76.7
Other <sup>25</sup>	-1
<b>PL</b>	<b>129.06</b>
PL - CZ	9.73
PL - DE_LU	42.73
PL - LT	13.98
PL - SE4	30.41
PL-SK	31.50
PL - UA_IPS	0.71
<b>PT</b>	<b>2.14</b>
PT - ES	2.14
<b>RO</b>	<b>13.15</b>
RO - BG	3.65
RO - HU	7.16
RO - RS	1.85
RO - UA	0.49
<b>SE</b>	<b>2119.40</b>

<sup>23</sup> Single Electricity Market

<sup>24</sup> IT\_CENTRE - SOUTH\_ME (€5.95 mil) and CIs on internal BZ borders (National Purchase Price - Zonal Price -> PUN - Pz) including financial net costs associated to hedging options (FTRs zone to hub) (€71.85 mil)

<sup>25</sup> Other additions/withdrawals that are netted with gross receipts: Participation in TenneT Germany, overhead costs Stichting Doelgelden and interest costs.

SE3 - DK1	40.88
SE4 - DK2	32.30
SE1 - FI	183.29
SE3 - FI	38.46
SE4 - LT	28.50
SE3 - NO1	42.56
SE2 - NO3	5.17
SE1 - NO4	10.85
SE2 - NO4	3.83
SE4 - PL	29.99
SE1 - SE2	1.34
SE2 - SE3	1245.21
SE3 - SE4	457.03
<b>SI</b>	<b>40.9</b>
SI - AT	22.1
SI - HR	1.2
SI - IT_NORTH	17.6
<b>SK</b>	<b>115.16</b>
SK - CZ	14.56
SK - HU	70.56
SK - PL	30.02
SK - UA	0.02

## Annex 2: NRAs' assessment of adequate fulfilment of Priority Objectives

- 55 Eleven NRAs reported the use of congestion income for network tariffs reduction: EWRC (BG), DUR (DK), CNMC (ES), CRE (FR), RAE (GR), MEKH (HU), ACM (NL), ERSE (PT), Ei (SE), AGEN-RS (SI) and URSO (SK). Since network tariffs reduction or fixing network tariffs is possible once the Priority Objectives are adequately fulfilled pursuant to Article 19(3), NRAs' assessment of the adequate fulfilment of Priority Objectives is an important aspect of the CI reporting. The assessments provided in the NRAs Reports are presented below in summary (if deemed necessary).

### 1. Bulgaria (EWRC)

- 56 EWRC (BG) deems the Priority Objectives adequately fulfilled.

Regarding actions to meet the 70% target of Article 16(8) and regarding the expenditures relevant to reducing interconnector congestions, the EWRC highlights that it was not possible to use a higher amount of CI to maintain the interconnections availability via redispatch and countertrade because the NRA approved a request of ESO EAD for derogation from 70% obligation of art. 16(8) of Regulation 2019/943 for 2021 and 2022. According to the NRA, the applying of the methodology for redispatching and countertrading and the cost sharing methodology will be possible after signing an agreement with the neighbouring non-EU countries for agreed upon coordinated capacity calculation on the borders of Bulgaria with third countries.

Regarding network investments relevant to reducing interconnector congestions, EWRC notes that cross-zonal capacities will be increased with the construction of transmission lines (PCIs) that are expected to be completed by the end of 2022.

### 2. Denmark (DUR)

- 57 DUR (DK) deems the Priority Objectives adequately fulfilled.

Regarding actions to meet the 70% target of Article 16(8) and regarding the expenditures relevant to reducing interconnector congestions, the NRA highlights that it was not possible to use a higher amount of CI to maintain the interconnections availability via redispatch and countertrade or to use or save a higher amount of CI on network investments that are necessary to reduce interconnector congestion due to the time of planning and execution.

### 3. France (CRE)

- 58 CRE (FR) deems the Priority Objectives adequately fulfilled. The NRA considers that RTE has used the available revenue effectively to meet the Priority Objectives.

CRE highlights that RTE is fully mobilized to achieve the Priority Objectives, which translates into significant expenditure, at the same level as the revenue collected in 2021. As CRE considers that the efficiency of the use of revenues depends more on the successful achievement of Priority Objectives than on the exhaustion of the amounts available, CRE considers that the 9.9EUR million surplus recorded for 2021 can be fully deducted from the tariff for access to the electricity transmission network (TURPE).

Regarding actions to meet the 70% target of Article 16(8), CRE explains that it was not efficient to use a higher amount of CI to maintain the interconnections availability via redispatch and countertrade as RDCT costs are not yet stabilised, since the implementation of methodologies for sharing the costs of international congestions at European level is currently under negotiation.

Regarding the expenditures relevant to reducing interconnector congestions, CRE argues that it was not efficient to use or save a higher amount of CI for network investments. RTE's network investments to reduce interconnector congestion are coherent with the NDP as approved by CRE in 2019 and the

needs identified in TYNDP 2020. Following the completion in 2021 of the work on IFA2, RTE is focused on the completion of Savoie-Piemont, the continuation of the work on the France-Belgium interconnection as well as the studies and consultations relating to the Celtic and Biscay Gulf projects.

#### **4. Greece (RAE)**

- 59 RAE (GR) deems the Priority Objectives adequately fulfilled.

Regarding network investments relevant to reducing interconnector congestions, RAE explains that CI was used for the new interconnection between GR and BG to be completed in October 2022, and the contribution in maintaining cross-zonal capacities through the optimisation of the usage of existing interconnectors ("Transfer of the Transmission Line 400kV Blagoevgrad – High Voltage Center Thessaloniki to High Voltage Center Lagkada" project to be completed in 2023).

Concerning actions to meet the 70% target of Article 16(8), RAE explains that interconnection between GR and IT is at 99% of the interconnection capacity since it is DC link, while on the border with BG, an exemption from the 70% obligation has been granted for 2021.

#### **5. Hungary (MEKH)**

- 60 MEKH (HU) deems the Priority Objectives adequately fulfilled.

Concerning actions to meet the 70% target of Article 16(8), MEKH notes that a derogation was granted to HU for years 2020 and 2021, and hence, no actions related to this objective were needed in 2021.

Regarding network investments relevant to reducing interconnector congestions, MEKH states that investments for the new Hungarian-Slovak interconnection and the Hungarian-Slovenian interconnection increased/ are going to increase the cross-zonal capacity. Furthermore, internal projects to be commissioned in 2022 help to maintain the cross-zonal capacity, according to MEKH.

#### **6. The Netherlands (ACM)**

- 61 ACM (NL) deems the Priority Objectives adequately fulfilled. The NRA highlighted that in 2021, it was not possible to efficiently use a higher amount of congestion income to meet Priority Objectives.

Concerning actions to meet the 70% target of Article 16(8), ACM reports that 187% of the total collected CI in 2021 (including a significant amount of CI available in the separate account) was used to meet the 70% target via redispatch and countertrade (19.2a). The NRA notes that it is difficult to say whether this percentage could be higher, but since the Dutch TSO (TenneT) applied the necessary redispatch and/or countertrade to comply with the values of the linear trajectory it can be assumed that it was not possible to use efficiently a higher amount of CI for this purpose.

Regarding network investments relevant to reducing interconnector congestions, ACM indicates that costs resulting from those investments in NL are covered by allowed tariff revenue. As part of the available CI in 2021 was used for setting the allowed tariff revenue, indirectly these network investments are financed through CI. In addition, ACM stressed that investments foreseen up to 2025 with the goal of meeting the 70% target are included in the action plan (adopted by the Minister of Economic Affairs and Climate Policy adopted in December 2019, in accordance with Article 15 of Regulations 2019/943). There are no more projects under development or in operation on which CI could have been spent in 2021. Expenditure of projects related to cost category vi is expected to be 24,2 million euros in 2022, and this cost will be remunerated by means of the allowed tariff revenue in 2022.

#### **7. Portugal (ERSE)**

- 62 ERSE (PT) deems the Priority Objectives adequately fulfilled.

Regarding network investments relevant to reducing interconnector congestions, ERSE outlines that according to Portuguese approved Transmission NDP, there is only one project planned and

scheduled regarding interconnection capacity (interconnector Portugal-Spain). ERSE states that until the commissioning of this project in 2024, there is no other investment to use CI on. After this project is commissioned, CI will be allocated to cover its yearly CAPEX and then only the remaining CI will be used for tariff reduction.

The NRA points out that that all projects approved in the NDP are fully recovered by tariffs and are mandatory, resulting in no problem in financing any transmission project.

## **8. Slovakia (URSO)**

63 URSO (SK) deems the Priority Objectives adequately fulfilled.

The NRA highlights that it was not possible to use efficiently a higher amount of CI to maintain the interconnections availability via redispatch and countertrade or to use or save a higher amount of CI on network investments that are necessary to reduce interconnector congestion. Also, a quite significant amount of CI was placed in a separate internal account line, therefore URSO agreed to use €15.8 million for the tariff reduction.

## **9. Slovenia (AGEN-RS)**

64 AGEN-RS (SI) deems the Priority Objectives adequately fulfilled.

According to AGEN-RS, the Slovenian TSO (ELES) with its transmission system does not cause cross-border congestions, therefore it will not invest in new cross-border interconnectors or upgrade existing ones in the future; that is why it did not reserve funds for possible future investments.

In particular, concerning actions to meet the 70% target of Article 16(8), AGEN-RS reports that ELES complies with the requirement of Regulation (EU) 2019/943 offering sufficient cross-border transmission capacity to market participants from 1 January 2020 onwards. Also, it notes that ELES has not applied for derogation of the requirements of Article 16(8) of Regulation (EU) 2019/943. According to AGEN-RS, the limitations on the borders with Austria, Italy, and Croatia are due to the lower proposed NTC values on the Austrian, Italian, and Croatian sides.

Regarding network investments relevant to reducing interconnector congestions (Article 19(2)(b)), the NRA explains that the latest NDP 2021-2030 states that any further increase in export transmission capacity will be appropriately matched to the increase in import transmission capacity and new generation sources and with the development of the transmission networks of neighbouring transmission systems. Thus, SI-IT HVDC link is being considered as one of the possible long-term solutions for increasing export transmission capacity towards Italy. The year of commissioning 2028 in TYNDP is provided by the Italian TSO TERNA, while on the Slovenian side, the project is in the study phase, but the final decision on the project has not yet been taken. In line with the NDP 2021-2030, implementation is not expected before 2030, but according to the latest feasibility study (April 2021), commissioning is possible after 2040 depending on market conditions and achieving an appropriate level of socio-economic benefits resulting from the project.

Other investments to increase cross-border transmission capacity under the NDP 2021-2030 are in the finalisation phase. They will be completed in 2022, and the financial resources to finance them have already been secured. There are no other investments planned in the current NDP 2021-2030 that would increase cross-border transmission capacity, and therefore, no separate internal account line was established in 2021.

## **10. Spain (CNMC)**

65 CNMC (ES) deems the Priority Objectives adequately fulfilled.

Regarding actions to meet the 70% target of Article 16(8), the NRA points out that almost €28 million of CI was dedicated to costly remedial actions (countertrading) in order to make all allocated capacity firm.

Concerning the future spending on network investments relevant to reducing interconnector congestions, CNMC claims that it is inefficient to store available CI on the internal account due to the current economic background of negative interest rates and the account maintenance costs. Furthermore, the NRA points out that cross border investments for the following years won't reach 30 M€/year, as the only relevant project foreseen in the next years is Vizcaya Golf submarine cable, for which payments are not expected to start before 2030 at best.

In addition to the current economic situation, CNMC explains that under a legal perspective, the national legal framework ensures the maximum comfort to cross border investments, guaranteeing available financial funds for them.

Furthermore, the NRA points out that Spain is pushing for ensuring a higher and more adequate level of interconnection in the ES-FR border, but due to the fact that ACER derated new projects from "planned but not yet in permitting" to "under consideration", additional cross-border investments were hindered.

Due to the above, CNMC concluded that there is no need of saving the CI not used in 2020 in a separate account.

## **11. Sweden (Ei)**

66 Ei (SE) deems the Priority Objectives adequately fulfilled.

Regarding the future spending on network investments relevant to reducing interconnector congestions, Ei highlights that the Swedish TSO (Svenska kraftnät) plans to increase future spending on the grid over the coming years; 4-12 billion SEK annually between 2022 and 2025, and 10-12 billion SEK in the long term. In addition, several projects and actions are launched by Svenska kraftnät to relieve congested bidding zone borders by using the grid more effectively (e.g. a plan to increase ten-fold countertrading, a new Line-Set in DA between SE4, NO1 and DK1, introduction of dynamic reliability margins, implementation of a flow-based capacity calculation methodology, introduction of new types of remedial actions and replacement of equipment by more efficient one).

However, due to the huge inflow of congestion income the last two years some of the congestion income has been used to reduce the tariffs for 2021.

## Annex 3: Completeness and consistency of submitted data

- 67 During the ACER review of the submitted data it was noted that some of the required data was missing or did not match other submitted data. Also, regarding the project specific data, a lot of inconsistencies were noted compared to the data included in the EU TYNDP 2020 or in the PCI monitoring 2021 report, which had also been subject to NRA's review. Therefore, ACER had to send out requests to most of the submitting NRAs<sup>26</sup> asking them to provide missing data or clarifications.
- 68 The most frequently missing information was the following:
- Project specific information regarding the projects on which CI was spent in 2021 (i.e. information on whether a project is included in the EU TYNDP or the NDP and its code, its commissioning date, its estimated or foreseen CAPEX, the capacity increase it induced, as well as sufficient justification of its cross-border relevance for the non-TYNDP projects);
  - Sufficient evidence that the Priority Objectives set out in Article 19(2) of Regulation (EU) 2019/943 were adequately fulfilled;
  - the Multi Year Estimate ('MYE') of indicative amounts to be spent on cost categories of Article 3(1) of the UCI Methodology and per project spending in case CI is foreseen to be used for the cost category (vi) of article 3.1 of the UCI Methodology (when there was CI not used in the previous year and it was placed on a separate account).
- 69 The most frequent inconsistencies within the data submitted were the following:
- CI collected on borders with non-EU countries was included in the figures of the CI inputs and expenditures. The usage of CI from borders at non-EU countries is not subject to Regulation (EU) 2019/943 and the ACER guidance was to deduct the relevant amounts from the reported amounts.
  - The amount of the "Start-of-year separate account balance" did not match (as it should) the amount of the "CI not used in the previous year and placed on a separate internal account line" of the previous year's report.
  - The CAPEX of projects, on which CI was used in 2021 or included in Section 6 of the NRAs Reports did not match the respective CAPEX reported in the EU TYNDP 2020, or in the 2021 PCI monitoring reports of the promoters available to ACER, or was significantly different from the CAPEX recorded in the UCI report of the previous year.
  - The MYE submitted did not cover the full amount saved in the separate account, or the per project spending on cost category vi of the TSOs Methodology was inconsistent with the amounts indicated in the MYE.
- 70 After incorporating the requested additional data and clarifications by the NRAs, the completeness and consistency of the information was improved to a great extent, although some data or information remain missing for some Reports.
- 71 Overall, the completeness of the NRAs reports improved compared to the previous year, due to the improved completeness of the information included in the MYE. More specifically, out of 14 countries, which had to submit a MYE, 11 provided this year a full MYE, i.e. a MYE including projections for all the amount placed on the separate account, and in case spending in category vi of Article 3(1) of the UCI Methodology was indicated, also yearly future projections per project. In 2021, most of the submitted MYEs were incomplete. The completeness of the other sections of the NRAs reports remained similar to 2021.

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<sup>26</sup> ACER requested further information from 21 out of the 23 countries that were required to submit a report.



## Annex 4: List of abbreviations & country codes

Acronym	Definition
ACER	Agency for the Cooperation of Energy Regulators
CI	Congestion Income
EU	European Union
MYE	Multi-Year Estimate of indicative amounts to be spent per project on cost categories of Article 3(1) of the UCI Methodology
NRA	National Regulatory Authority
TSO	Transmission System Operator
TYNDP	Ten-Year Network Development Plan

ISO code	Country
AL	Albania
AT	Austria
BA	Bosnia and Herzegovina
BE	Belgium
BG	Bulgaria
CH	Switzerland
CZ	Czech Republic
DE	Germany
DK	Denmark
EE	Estonia
ES	Spain
FI	Finland
FR	France
GB	United Kingdom of Great Britain and Northern Ireland
GR	Greece
HR	Croatia
IE	Ireland

ISO code	Country
LT	Lithuania
LV	Latvia
HU	Hungary
IT	Italy
LU	Luxembourg
MK	Republic of North Macedonia
NL	Netherlands
NO	Norway
PL	Poland
PT	Portugal
RO	Romania
RS	Serbia
SE	Sweden
SI	Slovenia
SK	Slovakia
TR	Turkey
UA	Ukraine

Abbreviation	NRA
ACM	Autoriteit Consument & Markt/Authority for Consumers & Markets
ARERA	Autorità di Regolazione per Energia Reti e Ambiente/Regulatory Authority for Electricity, Gas and Water
AGEN-RS	Agencija za Energijo/Energy Agency
ANRE	Autoritatea Națională de Reglementare în Domeniul Energie/Regulatory Authority for Energy
BNetzA	Bundesnetzagentur/Federal Network Agency for Electricity, Gas, Telecommunications, Posts and Railways
CRU	The Commission for Regulation of Utilities
CRE	Commission de régulation de l'énergie
CREG	Commission de Régulation de l'Électricité et du Gaz/Commissie voor de Regulering van de Elektriciteit en het Gas
CNMC	La Comisión Nacional de los Mercados y la Competencia/The National Commission on Markets and Competition
DUR	Forsyningstilsynet/Danish Utility Regulator
E-Control	Energie-Control Austria
ECA	Konkurentsiamet/Estonian Competition Authority
Ei	Energimarknadsinspektionen/Swedish Energy Markets Inspectorate
ERO	Energetický regulační úřad/Energy Regulatory Office
ERSE	Entidade Reguladora dos Serviços Energéticos/Energy Services Regulatory Authority
EWRC	комисия за енергийно и водно регулиране (КЕБП)/Energy and Water Regulatory Commission
EV	Energiavirasto/Energy Authority
MEKH	Magyar Energetikai és Közmű-szabályozási Hivatal/ The Hungarian Energy and Public Utility Regulatory Authority
HERA	Hrvatska energetska regulatorna agencija/Croatian Energy Regulatory Agency
ILR	Institut Luxembourgeois de Régulation
PUC	Sabiedrisko pakalpojumu regulēšanas komisija/Public Utilities Commission
RAE	Ρυθμιστική Αρχή Ενέργειας/The Regulatory Authority for Energy
URSO	Úrad pre reguláciu sieťových odvetví/Regulatory Office for Network Industries
URE	Urząd Regulacji Energetyki/Energy Regulatory Office
VERT	Valstybinė energetikos reguliavimo taryba/National Energy Regulatory Council