

**DECISION No 01/2026
OF THE EUROPEAN UNION AGENCY
FOR THE COOPERATION OF ENERGY REGULATORS**

of 30 January 2026

on the request of the regulatory authorities of the Continental Europe Synchronous Area to extend the period for reaching an agreement on the proposal for the minimum activation period to be ensured by frequency containment reserves providers

THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

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

Having regard to Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators,¹ and, in particular, Article 5(3) and Article 6(10) thereof,

Having regard to Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation,² and, in particular, Article 6(3)(d)(v), Article 6(7) and Article 156(10), thereof,

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

Having regard to the favourable opinion of the Board of Regulators of 28 January 2026, delivered pursuant to Article 22(5)(a) of Regulation (EU) 2019/942,

Whereas:

1. INTRODUCTION

(1) Pursuant to Article 6(3)(d)(v) and Article 156(10) of Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation ('SO Regulation'), transmission system operators ('TSOs') of the Continental Europe synchronous area ('CE SA') and the Nordic synchronous area

¹ OJ L158, 14.6.2019, p. 22.

² OJ L 220, 25.8.2017, p. 1.

shall develop a proposal concerning the minimum activation period to be ensured by frequency containment reserves ('FCR') providers.

- (2) In accordance with Article 6(7) of the SO Regulation, the regulatory authorities should reach an agreement and take a decision on the proposal for the minimum activation period to be ensured by FCR providers in accordance with Article 156(10) of the SO Regulation within six months after the receipt of the proposal by the last regulatory authority. Where the regulatory authorities fail to reach an agreement within the six-month period, ACER, pursuant to Article 6(8) of the SO Regulation, is called upon to adopt a decision concerning the TSOs' proposal in accordance with Article 6(10) of Regulation (EU) 2019/942.
- (3) The present Decision follows from the joint request of the regulatory authorities of CE SA, namely of Austria, Belgium, Bulgaria, Croatia, Czechia, Denmark, Estonia, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia and Spain to extend the period for reaching an agreement on the CE SA TSOs' proposal of 2025 for the minimum activation period to be ensured by FCR providers approach (the 'Proposal') by six months, pursuant to the third subparagraph of Article 6(10) of Regulation (EU) 2019/942.

2. PROCEDURE

- (4) By letter of 3 December 2025, ARERA, on behalf of all CE SA regulatory authorities, submitted to ACER a joint request to grant a six-month extension (the 'Letter'), according to the third subparagraph of Article 6(10) of Regulation (EU) 2019/942, to reach an agreement on the Proposal in accordance with Article 6(7) of the SO Regulation.
- (5) According to the Letter, all CE SA TSOs, including the Baltic TSOs who joined the CE synchronous area in 2025, submitted the Proposal to the CE SA regulatory authorities of which the last one received it on 17 June 2025.
- (6) In support of the request for extension, the letter explains:

'According to Article 6(3)(v) and Article 118 of the SO GL the Tmin proposal is one of the terms and conditions and methodologies belonging to the Continental Europe Synchronous Area Operational Agreement subject to the approval of the competent NRAs. According to Article 156(11) of the SO GL, this specific methodology was due 12 months after the approval of the assumptions and methodology for a cost-benefit analysis (hereinafter referred to as CBA proposal), i.e. by 7th October 2021, given that the CBA proposal was approved by the last concerned regulatory authority on 7 October 2020. The last concerned NRA received the Tmin proposal on 3 December 2021. By Decision No 8/2022 ACER granted the CE NRAs a six-month extension till 3 December 2022 in order to reach an agreement on the above-mentioned proposal. On 2 December 2022, the CE NRAs addressed the CE TSOs a request for amendment to the Tmin proposal asking for a specific assessment of the frequency regulation'

performances and for a re-run of the cost benefit analysis in order to review the relevant assumptions. The CE TSOs failed in accommodating the above-mentioned requests: the CE NRAs acknowledged the failure and on 26 June 2023 identified the appropriate steps in order for the CE TSOs to resubmit a new Tmin proposal consistent with the request for amendments issued in December 2022. In particular the CE NRAs set the new deadline for the submission of the Tmin proposal to 31 December 2024.

By the end of December 2024, the CE TSOs agreed on a Tmin proposal to be sent to the CE NRAs. On 9 February 2025 the CE synchronous area was extended including the Baltic countries. Hence the Tmin proposal should be submitted by all the CE TSOs resulting from this geographical extension, including the Baltic TSOs as well. This led to a delay in the formal submission and the last competent NRA received it on 17 June 2025, setting the deadline for the CE NRAs to reach an agreement to 17 December 2025.'

(7) Further, according to the Letter, during the discussions on the Proposal, the CE SA regulatory authorities noted that the CE SA TSOs tended to identify the Tmin from the first instant showing a frequency deviation greater than 50 mHz and not from the triggering of the alert state as prescribed by the SO Regulation. The CE SA regulatory authorities have been aware of this discrepancy since the approval of the CBA proposal in 2019 and clearly stated that the CE SA TSOs should have taken into account the discrepancy when proposing the value for Tmin:

'Unfortunately, the Tmin proposal submitted in 2025 lacks proper considerations on this ground. The CE NRAs thus started discussions with the CE TSOs in order to evaluate the implications of the overall dimensioning of the limited energy reservoir resources in view of the relevant provisions of the SO GL. The discussion is still ongoing. The limited energy reservoir resources are usually operated in such a way that they are able to provide FCR indefinitely within a standard frequency deviation up to 50 mHz. When the frequency deviation exceeds this value, the limited energy reservoir resources start thus depleting their energy even if the alert state has not been triggered yet (Note: the alert state is triggered: i) after 15 minutes of frequency deviation between 50 and 100 mHz, or ii) after 5 minutes of frequency deviation between 100 and 200 mHz). Thus there will be a loss of energy already during the normal state until the triggering of the alert state, which is not accounted for in the Tmin (as it should be counted as from the trigger of the alert state). The limited energy reservoir resources should, therefore, have a reservoir sufficient to accommodate both the Tmin and the amount of energy lost within the normal state-. This results in a need for over-dimensioning'.

(8) Therefore, the CE SA regulatory authorities unanimously agreed to jointly request ACER to provide a six-month extension on the basis of Article 6(10) of Regulation (EU) 2019/942.

- (9) On 5 January 2026, a proposed draft of the present decision was submitted to ACER's Electricity Working Group for consultation in accordance with Article 24(2) of Regulation (EU) 2019/942.
- (10) On 13 January 2026, ACER's Electricity Working Group endorsed the draft ACER Decision on the request of the regulatory authorities of CE SA to extend the period for reaching an agreement on the proposal for the minimum activation period to be ensured by FCR providers.
- (11) On 28 January 2026, ACER's Board of Regulators issued a favourable opinion pursuant to Article 22(5)(a) of Regulation (EU) 2019/942.

3. ASSESSMENT OF THE REQUEST

3.1. Legal framework

- (12) According to point (b) of the first subparagraph of Article 5(3) of Regulation (EU) 2019/942, all regulatory authorities of the region concerned shall unanimously agree on proposals for terms and condition or methodologies for the implementation of those network codes or guidelines that were adopted before 4 July 2019 and, where no unanimous agreement has been reached, shall refer the relevant proposal to ACER for approval in accordance with point (a) of the second subparagraph of Article 6(10) of Regulation (EU) 2019/942.
- (13) According to point (a) of the second subparagraph of Article 6(10) of Regulation (EU) 2019/942, ACER shall decide on regulatory issues having effects on cross-border trade or cross-border system security, which require a joint decision by at least two regulatory authorities, where such competences have been conferred on the regulatory authorities under network codes and guidelines adopted before 4 July 2019 and subsequent revisions of those network codes and guidelines and where the competent national regulatory authorities have not been able to reach an agreement within a period of six months from the referral of the case to the last of those regulatory authorities.
- (14) According to the third subparagraph of Article 6(10) of Regulation (EU) 2019/942, the competent national regulatory authorities may jointly request that the six-month period is extended by a period of up to six months.
- (15) According to Article 6(3)(d)(v) of the SO Regulation (which has been adopted as a guideline before 4 July 2019), the regulatory authorities of the concerned synchronous area shall approve the TSOs' proposal concerning the minimum activation period to be ensured by FCR providers in accordance with Article 156(10) of the same regulation.
- (16) According to Article 6(7) of the SO Regulation, where the approval of the terms and conditions or methodologies requires a decision by more than one regulatory authority, the competent regulatory authorities shall consult and closely cooperate and coordinate with each other in order to reach an agreement, and they shall take decisions concerning the submitted terms and conditions or methodologies in

accordance with paragraph (3) of the same Article within six months following the receipt of the terms and conditions or methodologies by the last regulatory authority concerned.

(17) According to Article 6(8) of the SO Regulation, where the regulatory authorities have not been able to reach an agreement within the six-month period, ACER shall adopt a decision concerning the submitted proposal for terms and conditions or methodologies within six months, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942.

3.2. Admissibility

(18) Article 5(3) in conjunction with point (a) of the second subparagraph of Article 6(10) of Regulation (EU) 2019/942 and Articles 6(3)(d)(v), 6(7) and 6(8) of the SO Regulation require the concerned regulatory authorities to take the decision and to reach an agreement on the Proposal within six months from the receipt of the submission but does not explicitly provide for the possibility to extend that period.

(19) Although the possibility to extend this six-month period is not explicitly indicated in the SO Regulation, ACER's competence under Article 6(8) of the SO Regulation to take a decision in accordance with Article 6(10) of Regulation (EU) 2019/942 is contingent also upon the expiry of the six-month period referred to in point (a) of the second subparagraph of Article 6(10) of Regulation (EU) 2019/942.

(20) Therefore, the transfer of the decision-making competence from the regulatory authorities to ACER under Articles 6(3)(d)(v) and 6(7) of the SO Regulation may also be subject to an extension of the regulatory authorities' deadline to reach an agreement, in accordance with the third subparagraph of Article 6(10) of Regulation (EU) 2019/942.

(21) For an extension of this six-month period, the joint request by the competent regulatory authorities should be submitted before the end of the period for reaching an agreement, and the maximum requested extension should not exceed the period of six months in accordance with the third subparagraph of Article 6(10) of Regulation (EU) 2019/942.

(22) The Proposal to which the present request for extension is related falls under the competence of the requesting regulatory authorities pursuant to Article 6(3)(d)(v) and 6(7) of the SO Regulation. Accordingly, they are also the competent regulatory authorities that may request an extension of the six-month period for reaching an agreement under Article 5(3) and point (a) of the second subparagraph of Article 6(10) of Regulation (EU) 2019/942 and Articles 6(7) and 6(8) of the SO Regulation.

(23) Since the last concerned regulatory authority received the Proposal on 17 June 2025, the competent regulatory authorities had to agree on it by 17 December 2025, in accordance with Articles 6(7) of the SO Regulation and point (a) of the second subparagraph of Article 6(10) of Regulation (EU) 2019/942. The request for extension

was received by ACER on 3 December 2025, hence before the expiry of the six-month deadline on 17 December 2025.

- (24) In their request, the competent regulatory authorities ask for an extension of six months, i.e. until 17 June 2026. As such, the requested extension does not exceed the maximum limit of six months as provided for in the third subparagraph of Article 6(10) of Regulation (EU) 2019/942.
- (25) Therefore, ACER considers the request for extension as admissible.

3.3. Substance

- (26) Article 6(10) of Regulation (EU) 2019/942 does not lay down requirements for the justification of an extension.
- (27) The requesting CE SA regulatory authorities consider the extension justified on the ground that they need more time to understand the implications of the over-dimensioning, given that, in the event of the standard frequency deviation exceeding 50 mHz, the limited energy reservoir resources start depleting their energy even if the alert state has not been triggered yet (the alert state is triggered after 15 minutes of frequency deviation between 50 and 100 mHz, or after 5 minutes of frequency deviation between 100 and 200 mHz). Thus, there will be a loss of energy already during the normal state until the triggering of the alert state, which is not accounted for in the Tmin (as it should be counted as from the trigger of the alert state). The limited energy reservoir resources should, therefore, have a reservoir sufficient to accommodate both the Tmin and the amount of energy lost within the normal state. This results in a need for over-dimensioning.
- (28) In that regard, ACER understands from the justification of the requesting regulatory authorities that they would not be able to reach an agreement and to adopt a decision on the Proposal unless they have:
 - i) evaluated the extent of the needed over-dimensioning and
 - ii) examined whether considering this over-dimensioning represents a solid approach to deal with the discrepancy between the CBA simulations (which were run under the assumption of a depletion starting when the frequency deviation exceeds 50 mHz) and the relevant requirements of the SO Regulation (Tmin counted as soon as from the triggering of the alert state).
- (29) ACER considers that continuing and completing the regulatory authorities' ongoing assessment can contribute to the efficient conclusion of the pending approval proceedings. In ACER's view, this continuation and completion would not unduly impact the fulfilment of the objective of the SO Regulation. Under those circumstances, ACER deems it reasonable to enable the regulatory authorities to conclude the pending approval proceedings
- (30) Furthermore, ACER considers that the request for extension for a total of six months is proportionate in light of the activities to be performed by the competent regulatory

authorities to adopt a decision on the Proposal in accordance with Article 6(7) of the SO Regulation.

(31) Therefore, ACER considers an extension until 17 June 2026 as justified.

4. CONCLUSION

(32) For the above reasons, ACER accepts the request for an extension submitted by the competent regulatory authorities of the CE SA regulatory authorities and extends the period for those regulatory authorities to reach an agreement with regard to the Proposal until 17 June 2026,

HAS ADOPTED THIS DECISION:

Article 1

The period within which the regulatory authorities of Continental Europe synchronous area, i.e. of Austria, Belgium, Bulgaria, Croatia, Czechia, Denmark, Estonia, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania Luxembourg, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia and Spain shall reach an agreement on the Continental Europe synchronous area TSOs' proposal of 2025 concerning the minimum activation period to be ensured by frequency containment reserves providers is extended, in accordance with Article 6(10) of Regulation (EU) 2019/942, until 17 June 2026.

Article 2

This Decision is addressed to:

- a) Energie-Control Austria (Austria)
- b) Commission de Régulation de l'Électricité et du Gaz (Belgium)
- c) комисия за енергийно и водно регулиране (Bulgaria)
- d) Hrvatska energetska regulatorna agencija (Croatia)
- e) Energetický regulační úřad (Czechia)
- f) Forsyningstilsynet (Denmark)
- g) Konkurentsiamet (Estonia)
- h) Commission de régulation de l'énergie (France)
- i) Bundesnetzagentur (Germany)
- j) Ρυθμιστική Αρχή Αποβλήτων, Ενέργειας και Υδάτων (Greece)
- k) Magyar Energetikai És Közmű-Szabályozási Hivatal (Hungary)
- l) Autorità di Regolazione per Energia Reti e Ambiente (Italy)
- m) Sabiedrisko pakalpojumu regulēšanas komisija (Latvia)
- n) Valstybinė energetikos reguliavimo taryba (Lithuania)
- o) Institut Luxembourgeois de Régulation (Luxembourg)
- p) Autoriteit Consument & Markt (the Netherlands)
- q) Urząd Regulacji Energetyki (Poland)

- r) Entidade Reguladora dos Serviços Energéticos (Portugal)
- s) Autoritatea Națională de Reglementare în Domeniul Energie (Romania)
- t) Úrad pre reguláciu siet'ových odvetví (Slovakia)
- u) Agencija za Energijo (Slovenia)
- v) La Comisión Nacional de los Mercados y la Competencia (Spain)

Done at Ljubljana, on 30 January 2026.

- SIGNED -

*For the Agency
The Director ad interim*

V. ZULEGER

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

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