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**Subject: State Aid SA.114306 (2024/N) – Bulgaria  
RRF and TCTF: State aid scheme to support the construction of  
stand-alone electricity storage facilities**

Excellency,

## 1. PROCEDURE

- (1) By electronic notification of 22 July 2024, Bulgaria notified aid for accelerating the rollout of storage relevant for REPowerEU (BG-RRP-4.0034 "Национална инфраструктура за съхранение на електроенергия от възобновяеми източници RESTORE" National renewable electricity storage infrastructure RESTORE)). (hereinafter, the 'measure' or the 'scheme') under the Temporary Crisis and Transition Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the 'Temporary Crisis and Transition Framework') <sup>(1)</sup>. The Commission requested additional information on 1 July and 20 August, which were provided by the Bulgarian authorities on 22 July and 3 September, respectively.

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<sup>(1)</sup> Communication from the Commission on the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 426, 28.10.2022, p. 1).

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- (2) Bulgaria exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union ('TFEU'), in conjunction with Article 3 of Regulation 1/1958 <sup>(2)</sup> and to have this Decision adopted and notified in English.

## 2. DESCRIPTION OF THE MEASURE

### 2.1. Background and objectives

- (3) Bulgaria considers that the Russian aggression against Ukraine and its direct and indirect effects, including the sanctions imposed and the countermeasures taken, for example by Russia, have economic repercussions on the entire internal market ('the current crisis'). The current crisis created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas and electricity, but also in numerous other input and raw materials and primary goods. The increase in the prices of energy caused by the current crisis proved the urgency to quickly reduce dependency on fossil fuels imports and accelerate the energy transition, by expanding the availability of renewable energy in a cost-effective way in line with the REPowerEU Plan <sup>(3)</sup>.
- (4) Therefore, the measure will favour the deployment of renewable energy generation projects that are needed for the transition towards a net-zero economy in line with the Green Deal Industrial Plan <sup>(4)</sup>. The Bulgarian authorities submit that the project supported by the measure is part of the updated Bulgarian Recovery and Resilience Plan ('RRP') <sup>(5)</sup> which the Commission and the Council assessed positively <sup>(6)</sup>. Bulgaria submitted that network modelling undertaken by independent consultants does not find any bottlenecks in the current Bulgarian electricity grid which would require storage to be located directly next to the renewable facilities to avoid

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<sup>(2)</sup> Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

<sup>(3)</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions REPowerEU Plan, COM/2022/230 final.

<sup>(4)</sup> COM(2023) 62 final, Communication from the Commission to the European Parliament, the European Council, the Council, the Economic and Social Committee and the Committee of the Regions, A Green Deal Industrial Plan for the Net-Zero Age, 1.2.2023.

<sup>(5)</sup> "Investment 8: National RES electricity storage infrastructure (RESTORE)".

<sup>(6)</sup> See Commission's proposal of 21 November 2023 for a Council Implementing Decision amending Implementing Decision (EU) (ST 8091/22 INIT; ST 8091/22 ADD 1) of 4 May 2022 on the approval of the assessment of the recovery and resilience plan for Bulgaria, COM/2023/746 final and Council Implementing Decision amending the Implementing Decision of 4 May 2022 on the approval of the assessment of the recovery and resilience plan for Bulgaria (ST 15837 2023 INIT), available at [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CONSIL:ST\\_15837\\_2023\\_INIT](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CONSIL:ST_15837_2023_INIT), and at [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CONSIL%3AST\\_15837\\_2023\\_ADD\\_1](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CONSIL%3AST_15837_2023_ADD_1). The Council implementing decision on the RRP for Bulgaria was adopted on 8 December 2023: <https://www.consilium.europa.eu/en/press/press-releases/2023/12/08/recovery-fund-council-greenlights-amended-national-plans-for-13-member-states/>.

congestion. The Bulgarian authorities additionally submitted, that the pipeline for storage facilities under development in Bulgaria also shows that these facilities are expected to be distributed across Bulgaria, this combined with the meshed topology of the Bulgarian electricity system ensures that storages can provide benefit to the grid without facing network constraints. Lastly, the Bulgarian electricity network operates with deep connection charges, which provides a financial incentive for developers to not “cluster” at connection points, and instead spread out across the territory. However, in order to have a grid scale effect, a minimum requirement of 10 MW energy capacity for the storage infrastructures is set under the scheme. Lastly, positive assessment by the TSO on the capability to provide system services for the storage infrastructures is set as condition for provision of the grant support under the scheme.

- (5) Bulgaria confirms that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the European Economic Area (‘EEA’) to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (6) The compatibility assessment of the measure is based on Article 107(3), point (c), TFEU, in light of sections 1 and 2.5 of the Temporary Crisis and Transition Framework (‘TCTF’) <sup>(7)</sup>.

## **2.2. The nature and form of aid**

- (7) The measure provides aid on the basis of a scheme in the form of direct grants.

## **2.3. Legal basis**

- (8) The legal basis for the measure is the Council of Ministers’ Decision No. 203 of 7 April 2022 on the Approval of an Updated National Recovery and Resilience Plan of the Republic of Bulgaria outlining support from the Recovery and Resilience Facility of the European Union <sup>(8)</sup>.

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<sup>(7)</sup> Communication from the Commission on the Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 101, 17.3.2023, p. 3), as amended by Commission Communication C(2023)8045 (OJ C1188, 21.11.2023, ELI: <http://data.europa.eu/eli/C/2023/1188/oj>) and by Commission Communication C(2024)3123 (OJ C3113, 2.4.2024, ELI: <https://eur-lex.europa.eu/eli/C/2023/1188/oj>). This Temporary Crisis and Transition Framework replaces the Temporary Crisis Framework adopted on 28 October 2022 (OJ C 426, 9.11.2022, p. 1), which had already replaced the previous Temporary Crisis Framework adopted on 23 March 2022 (OJ C 131I, 24.3.2022, p. 1), as amended on 20 July 2022 (OJ C 280, 21.7.2022, p. 1). The Temporary Crisis Framework was withdrawn with effect from 9 March 2023.

<sup>(8)</sup> Decision No 203 of 7 April 2022 for the Approval of an Updated National Recovery and Sustainability Plan for the Republic of Bulgaria outlining Support from the Recovery and Resilience Facility of the European Union - *РЕШЕНИЕ № 203 ОТ 7 АПРИЛ 2022 ГОДИНА ЗА ОДОБРЯВАНЕ НА АКТУАЛИЗИРАН НАЦИОНАЛЕН ПЛАН ЗА ВЪЗСТАНОВЯВАНЕ И УСТОЙЧИВОСТ НА РЕПУБЛИКА БЪЛГАРИЯ, ОЧЕРТАВАЩ ПОМОЩТА ОТ МЕХАНИЗМА ЗА ВЪЗСТАНОВЯВАНЕ И УСТОЙЧИВОСТ НА ЕВРОПЕЙСКИЯ СЪЮЗ*

- (9) Decision No. 203 of 7 April 2022 is implemented by the Council of Ministers' Decree No. 114 of 8 June 2022 laying out detailed rules for providing funds to final beneficiaries of the Recovery and Resilience Facility <sup>(9)</sup>.
- (10) The Bulgarian authorities confirmed that the support under the call for tenders will be effected only after the Commission's approval of the scheme, and that hence any aid will only be granted in respect of the standstill obligation. The Guidelines for Participation clarify that the funding contracts under the scheme shall enter into force after an approval of the state aid by the European Commission.

#### **2.4. Administration of the measure**

- (11) The aid will be granted by the Ministry of Energy <sup>(10)</sup>. The Ministry of Energy will conduct the call for tenders and will administer the granting of the aid. The Decree of the Bulgarian Council of Ministers 157 from 7 July 2022, as amended afterwards, specifies the roles and functions of the different Government structures in the RRP implementation.

#### **2.5. Budget and duration of the measure**

- (12) The overall estimated budget of the measure is of BGN 1 153 939 700 (approx. EUR 590 000 000) (recital (28)) to support the installation and commissioning of at least 3000 MWh of new grid-scale electricity storage capacity (recitals (20) and (21)). The grant will be funded by the Recovery and Resilience Facility ('RRF') <sup>(11)</sup>. According to Bulgaria, the budget will not be adopted annually and will cover the period from 1 July 2024 to 30 June 2026.
- (13) Aid may be granted under the measure as from the notification of the Commission's decision approving the measure until no later than 31 December 2025.

#### **2.6. Beneficiaries**

- (14) The final beneficiaries of the measure are undertakings active in the energy sector in Bulgaria. Credit institutions or other financial institutions are excluded as eligible final beneficiaries.
- (15) Beneficiaries shall be legal entities duly established under the Bulgarian Commercial Act and registered with the Bulgarian Commercial Register and the Non-Profit Legal Entities Register or equivalent entities registered in a Member State of the European Economic Area.

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<sup>(9)</sup> Decree No 114 of 8 June 2022 laying out detailed rules for providing funds to final beneficiaries of the Recovery and Resilience Facility – *ПОСТАНОВЛЕНИЕ № 114 ОТ 8 ЮНИ 2022 Г. ЗА ОПРЕДЕЛЯНЕ НА ДЕТАЙЛНИ ПРАВИЛА ЗА ПРЕДОСТАВЯНЕ НА СРЕДСТВА НА КРАЙНИ ПОЛУЧАТЕЛИ ОТ МЕХАНИЗМА ЗА ВЪЗСТАНОВЯВАНЕ И УСТОЙЧИВОСТ*

<sup>(10)</sup> [www.me.government.bg](http://www.me.government.bg)

<sup>(11)</sup> Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility as subsequently amended (OJ L 57, 18.2.2021, p.17).

- (16) Bulgaria confirmed that the aid under the measure is not granted to undertakings under sanctions adopted by the EU, including but not limited to: (i) persons, entities or bodies specifically named in the legal acts imposing those sanctions; (ii) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or (iii) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions.
- (17) Bulgaria confirmed that the measure may not in any way be used to undermine the intended effects of sanctions imposed by the EU or its international partners and will be in full compliance with the anti-circumvention rules of the applicable regulations <sup>(12)</sup>. In particular, natural persons or entities subject to the sanctions will not benefit directly or indirectly from the measure.
- (18) Bulgarian authorities commit to suspend the award and/or payment of any aid under the notified aid scheme to any undertaking that has benefited from earlier unlawful aid declared incompatible by a Commission Decision (either as an individual aid or an aid under an aid scheme being declared incompatible), until that undertaking has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid and the corresponding recovery interest.

## **2.7. Sectoral and regional scope of the measure**

- (19) The measure is open to the energy sector. The measure applies to the whole territory of Bulgaria.

## **2.8. Basic elements of the measure**

- (20) The measure aims to support the installation and commissioning of at least 3000 MWh of new electricity storage capacity by March 2026. This capacity is proposed in the Bulgarian RRP and validated by an independent modelling of the Bulgarian energy system, which indicates that storage needs by 2030 range from 2936 MWh of new electricity storage capacity in the case of the Bulgarian Government's current plans <sup>(13)</sup>, to 4000 MWh in a more ambitious decarbonisation scenario and higher market volatility. Bulgaria expects the storage needs by 2030 to be within this range, but above 3000 MWh, because the assumptions within the scenario which yields 2936 MWh of storage needs may underestimate total needs. In particular, the assumed decommissioning dates for thermal assets are conservative, resulting in slower decarbonisation of the energy sector and hence a slower increase in the need for storage assets than may occur in case of more rapid decarbonisation.
- (21) Further, the expectation that tenders for the construction of 3000MWh of storage will be competitive has been cross-validated by the information on the

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<sup>(12)</sup> For example, Article 12 of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 229, 31.7.2014, p. 1).

<sup>(13)</sup> Draft updated NECP, available at: <https://www.me.government.bg/news/me-i-mosv-predlagat-za-obshtestveni-konsultacii-aktualiziran-integriran-nacionalen-plan-energetika-i-klimat-3459.html?p=eyJ0eXBIIjojZGlzY3Vzc2lvbm5ld3NfMCMJ9>

project pipeline of applications for stand-alone storage projects, provided by the TSO, which shows a total capacity of 12 010.8 MWh of storage projects with concluded preliminary connection agreements, statements of connection or in the process of obtaining connection statements which have a capacity of at least 10MW, which is set as technical eligibility requirement under the scheme. This results in a total pipeline of significantly over 3,000 MWh of storage capacity currently potentially eligible to apply for support under the scheme.

- (22) The supported electricity storage facilities will be distributed on the national territory of Bulgaria, connected to the electricity transmission grid, or to the respective electricity distribution grid, with direct optical connection to the telecommunication network, respectively the control systems (Supervisory Control and Data Acquisition - SCADA) of the transmission system operator (TSO).
- (23) Bulgaria explains that storage facilities perform two key functions:
  - (a) A price arbitrage function in the electricity markets by absorbing and storing electricity when electricity market prices are low and injecting it back into the grid when electricity market prices are high.
  - (b) A balancing and other system services function as battery storage has a high potential to provide ancillary services to the grid such as to accommodate rapid changes in electricity supply and demand, to cater for large intraday ramping and deceleration in residual load, and to provide frequency regulation and inertia services to ensure safe and stable operation of the electricity grid.
- (24) Bulgaria further explains that when performing the energy arbitrage function, storage facilities effectively substitute expensive electricity generated by high-cost units frequently using fossil fuels (partly imported from Russia, e.g. natural gas via the TurkStream pipeline) with low-cost and clean electricity, available during periods of high generation of energy from renewable sources ('RES'). Storage generally facilitates the integration of RES and reduces the curtailments of RES electricity during over-generation periods. When performing the balancing function, the measure will contribute significantly to providing electricity balancing services to the grid and providing flexibility and ancillary services on the market. Expanding these capabilities is indispensable to further expand renewable electricity generation in Bulgaria.
- (25) According to Bulgaria, the purpose of the investment is to enable a significant increase in the share of energy from renewable sources in the energy mix and to guarantee the security and stability of the Bulgarian electricity system. Specifically, the project intends to provide a significant contribution to maximising the utilisation of electricity produced by available and future RES capacities. By increasing available storage capacity in the system, Bulgaria aims to smoothly integrate a higher share of RES in the Bulgarian electricity system, reducing curtailments. The Bulgarian authorities consider that the measure will also contribute to ensuring sufficient capacities for the balancing of the grid. The expansion of renewable based generation capacities will support the diversification of the energy supply, decrease import dependency in particular from Russia, and provide a clean source of electricity eventually

also to the directly connected neighbouring Member States (Romania and Greece) and the Continental European electricity system as a whole.

- (26) Bulgaria explains that despite the growing demand, there is high uncertainty regarding the attainable income of new storage solutions that hinders investments. The Russian aggression against Ukraine has amplified energy price levels and resulted in increased energy price volatility. While the storage facilities may in short term be able to realise high revenues due to increased price levels and volatility, it is difficult to assess how long such conditions will last. Further the supply chain disruption coupled with increased energy prices have mitigated the impact of investment cost reduction of storage facilities. Additionally, the base interest rates have increased substantially over the past year (e.g. EURIBOR 3-month rates have increased by ~71% as of 03-Jul-2024 from 01-Jan-2023 levels<sup>14</sup>) and consequently the overall cost of financing project development have also increased. The heavy investment need, increase in cost of financing and potential uncertainty concerning revenue might hinder storage investments in the next few years, and without storage investments, the potential to integrate new renewables would be seriously constrained.
- (27) The support for capital expenditure ('CAPEX') has a maximum intensity up to or equal to 50% of the eligible costs per applicant in the first tender. In the (considered unlikely) event of undersubscription of the first tender, Bulgaria would consider revising this intensity. Grants are capped at BGN 371 607.70 (without VAT) per 1 MWh (EUR 190 000/MWh) of usable energy capacity of the electricity storage facilities installed and put into operation, in line with the targeted capacity and budget of the RRP. Bulgaria submits that the independent modelling of expected wholesale and ancillary services market revenues for storage identifies this level of aid intensity as sufficient to ensure a viable business case for assets built in the RRP timeline. Also, eligible costs (such as, expenditure on the acquisition of tangible fixed assets, expenditure on the acquisition of intangible fixed assets, costs of construction and installation works, costs of engineering services in connection with the design, costs for the construction of connection facilities and connection to the electricity grid, administrative costs for state and municipal fees in connection with registration, licensing and permitting regimes) will be determined through clear rules specified in the tender documentation. The eligible costs must meet the following conditions: (1) to be necessary for the implementation of the investment proposal, to be acceptable, justified and to comply with the principle of good financial management, in particular with regards to economy and efficiency; (2) to be carried out in the period from 25 June 2024 until the deadline specified in the proposal, but no later than 31 March 2026; (3) to be consistent with the types of costs included in the funding contract with the end recipient; (4) to be actually paid by the end recipient (i.e. the full value of the submitted invoices or other primary accounting documents, including the value of VAT, to be paid), via bank transfer by the deadline specified in the implementation plan of the proposal, but no later than 31 March 2026; costs claimed under set-off protocols are not deemed eligible; (5) to be reflected in the accounting documentation of the end recipient through separate accounting analytical accounts containing the

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<sup>14</sup> Euro Interbank Offered Rate, <https://www.euribor-rates.eu/en/>.

number of the funding contract or in a separate accounting system with approved accounts for reporting costs under the funding contract; (6) to be verifiable and supported by original expenditure justification documents; (7) to be for services actually performed and assets delivered, necessary for the construction of the electricity storage facility. The costs for administrative service in permitting and licensing and engineering services in relation with design cannot exceed 10% from the eligible costs.

- (28) According to the Bulgarian authorities, the implementation will be carried out through open and competitive bidding procedures based on clear, transparent, and non-discriminatory criteria. Bulgaria submits that the auction quota, the budget, and the selection rules will be defined and published in advance and will not be subject to changes after the tender implementation. The budget for the tender will be of BGN 1 153 939 700 (EUR 590 000 000) <sup>(15)</sup>.

#### *2.8.1. The tender process*

- (29) The storage projects to be supported by the scheme will be selected through a competitive tender process.
- (30) The tender rules will be defined ahead of the tender (recital (10)). The Bulgarian authorities confirmed that all criteria related to the competitive tender process will be defined and published ex-ante in the call for tenders and/or its annexes and allow for sufficient time for all interested parties to prepare their projects.

##### *2.8.1.1. Eligibility*

- (31) All electricity storage technologies are eligible under the scheme. The Bulgarian authorities confirmed that they neither encourage nor discourage the use of any specific technology, and that the scheme contains no rules that would limit technology neutrality. Specifically, according to Bulgaria all technologies are eligible under the scheme if they:
- (a) comply with the ‘do no significant harm’ principle;
  - (b) are connected to the distribution or transmission networks;
  - (c) have a minimum energy capacity of 2 MWh per MW installed power capacity;
  - (d) have a minimum capacity of 10 MW to ensure that only grid scale storages can participate while also widening the pool of potential participants to increase competition;
  - (e) are able to commission the storage before 31 March 2026 (i.e., three months before the RRP deadline which is on 30 June 2026);
- (32) Electricity storage facilities must be designed, constructed and operated in accordance with the requirements of the Bulgarian Energy Act, the Bulgarian

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<sup>(15)</sup> Exchange rate between EUR and BNG is fixed by the Bulgarian Central Bank to 1.95583 BGN/EUR



Spatial Planning Act, the Bulgarian Environmental Protection Act, the Bulgarian Biodiversity Act, the Bulgarian Waste Management Act and other applicable national and European regulations and meet a set of technical performance criteria as per Annex 1.

- (33) Bulgaria submits that the storage facilities should have a direct optical connection to the telecommunication grid respectively – SCADA of the TSO and must comply with TSO requirements for the provision of reserves for primary frequency control or automatic frequency control, which is to be demonstrated by passing the relevant TSO tests upon commissioning.
- (34) Projects should have a level of maturity i.e. signed at least statement on connection with the respective grid operators and have all construction permits valid as of 30 May 2025.
- (35) The Bulgarian authorities confirmed that the aid will be granted to newly installed electricity storage capacities based on the installed capacity and shall be independent from the energy output.
- (36) Bulgaria submits that no support will be granted if the start of works on the project took place prior to the public consultation launched on 25 June 2024. ‘Start of works’ means the earlier of either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible. Buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered start of works. Also, projects will be required to be at a minimum stage of readiness, by submitting a positive statement for connection issued by the Bulgarian TSO or by the Distribution System Operators (‘DSOs’).
- (37) According to Bulgarian authorities the exact eligibility criteria applicable to the call for tenders will be set well in advance. The bidding undertakings will have to, *inter alia*:
  - (a) commission the storage infrastructure before 31 March 2026;
  - (b) provide a proof that it has no due public debts;
  - (c) meet all criteria under Article 6 of Council of Ministers’ Decree No. 114 of 8 June 2022;
  - (d) not qualify as an undertaking in difficulty according to the relevant Guidelines <sup>(16)</sup>;
  - (e) comply with the eligibility requirements of the TCTF, including not being: subject to sanctions adopted by the European Union (recital (16));
  - (f) not fall within the scope of Article 3, item 14 of the Law on Economic and Financial Relations with Companies Registered in Jurisdictions with

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<sup>(16)</sup> Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.7.2014, p. 1).

Preferential Tax Regime, the Persons Controlled by Them and Their Beneficial Owners, insofar as they are not exempted;

- (g) if not exempted, duly register the information on beneficial owners in accordance with the requirements of Article 63 of the Law on Measures against Money Laundering;
  - (h) not be found, by an administrative act in force, to have been unduly paid and/or overpaid amounts, as well as unduly received and/or used funds, in proposals for the implementation of investments financed by the pre-accession financial instruments, the operational programmes, the Structural Funds and the Cohesion Fund of the European Union, the European Agricultural Funds and the European Fisheries Fund, the Schengen Facility and the Transition Facility;
  - (i) not be under the restrictions set out by Council Regulation (EU) No 833/2014 of 31 July 2014 <sup>(17)</sup>;
  - (j) be able to prove a minimum level of financial viability on a pass/fail basis (no ranking) own capital or own capital of the shareholders/partners in the amount of BGN 6 million for proposals with storage capacity  $\geq 20$  MWh and  $\leq 50$  MWh, and BGN 10 million for proposals with storage capacity  $> 50$  MWh; comply with environmental management practices under EU legislation;
  - (k) comply with additional technical criteria on the project's minimum quality standards (including on health & safety), also through submission of ISO certificates and warranty policies as defined in the tender documents.
- (38) Total support provided to affiliated entities can be no more than 1/6 of the total capacity supported by the aid measure. Affiliation will be established at the date of submission of the investment proposal, in accordance with point 3 of Annex 1 of Regulation (EU) No 651/2014, by applicants. Further, a maximum limit of EUR 76 million of aid per storage facility will apply.

#### 2.8.1.2. Tendered capacity and timing

- (39) Bulgaria submitted that, as validated by an independent modelling of the Bulgarian electricity system, the unlocking of grid integration opportunity for new intermittent renewable generation capacity needs at least 3000 MWh of new storage capacity (recital (12)). The project is one of the milestones of the updated Bulgarian RRP, which the Commission and the Council assessed positively (recital (3)). The requirement for 3,000 MWh of new storage capacity has been cross-validated by both the energy system modelling undertaken by independent consultants and by the pipeline of storage projects, as discussed in recital (21).

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<sup>(17)</sup> Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine as subsequently amended (OJ L 229, 31.7.2014, p. 1).

- (40) Bulgaria submitted that there is a pipeline of storage projects (based on data provided by the TSO) which indicated there is significantly over 3,000 MWh potentially eligible projects for storage capacity consisting of projects which are at least 10 MW in size. These projects either possess a concluded preliminary connection agreement, hold a statement of connection by the TSO or are in the process of obtaining a statement of connection.
- (41) Based on the considerations in recital (40), Bulgaria expects 51-100 successful beneficiaries from various segments of the economy (suppliers, generating companies, existing and future PV owners, existing and future aggregators) and of various sizes (small, medium sized as well as large companies).
- (42) The selection procedure will be organised as one tender round. If in the unlikely event this tender round is undersubscribed, a second tender round will be launched to meet the required capacity of storage and /or absorb the RRP budget. Bulgaria expects the tender to be oversubscribed without the need for an oversubscription rule, given that the pipeline data provided by the TSO indicates that there is significantly over 3,000 MWh of storage capacity consisting of projects which are at least 10 MW in size and hence are expected to be eligible to participate <sup>(18)</sup> far exceeding the targeted capacity of at least 3,000 MWh.
- (43) Bulgaria currently envisages the following timetable
- public consultation: 25 June – 25 July 2024
  - call for proposals opening – 20 Aug 2024 <sup>(19)</sup>
  - tender submission – 21 November 2024
  - evaluation/grant contract conclusion –mid January 2025.
  - Start of operation of the storage facilities – at latest end March 2026
- (44) The projects will have to be completed and put in operation by 31 March 2026. If this deadline is not met, the performance guarantee (bank guarantee with an amount of 10% of the approved grant) provided by the bidder under the funding contract will not be returned and the grant will not be paid either. The granting authority will be entitled to withdraw the full amount under the provided bank guarantee which is in the amount of 10% of the approved grant funding. These criteria will be set out in the call for tenders.

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<sup>(18)</sup> This estimate accounts for the portion of the pipeline consisting of co-located renewable and storage projects which may be eligible for support under the RES & Storage tender, and does not include these projects in the pipeline capacity estimate, as explained in recital 13.

<sup>(19)</sup> <https://eumis2020.government.bg/bg/s/800c457d-e8bc-4421-8ed9-9e78d0a75c39/Procedure/Info/5ec491ab-50e7-4bf7-9757-2290e3ef33f3>.

### 2.8.1.3. Selection of the beneficiaries

- (45) According to Bulgarian authorities, the projects to be supported by the scheme will be selected based on a least cost criterion, i.e. based on price bid per MWh (EUR/MWh) of storage capacity, allowing storage assets with different durations to compete on a level playing field. The successful bidder will be obliged to notify the Bulgarian authorities, that the corresponding MWh has been achieved. The pay-as-bid rule will apply. Hence, each bidder will receive exactly the level of support for which they bid (EUR/MWh of storage capacity). Payments will be made upon project completion and confirmed commercial operation date (confirmed by TSO/DSO).
- (46) Bulgaria submits that all bidders will have to provide bid guarantees and all successful bidders will have to provide performance guarantees (see recital (44)). Undertakings will be contractually obliged to retain ownership of the facility and to operate it for at least five years. In addition and as a guarantee that the projects will be completed by 30 June 2026 (RRP ultimate deadline), the undertakings are obliged to reach certain stages within the following preset deadlines: (i) the appropriate high/medium voltage transformer(s) has been ordered: no later than 30 April 2025; (ii) all permits for the construction (installation) of the storage facility as specified in the proposal have been obtained: no later than 31 May 2025; (iii) the contract for the construction (installation) of the storage facility has been signed and works have started: no later than 30 June 2025; (iv) the funding for the implementation of the applicant's investment proposal under this procedure has been secured no later than 30 June 2025. If these obligations are not fulfilled, the undertaking must reimburse the aid.
- (47) The Bulgarian authorities confirmed that the investment grant is part of the tender process. All projects selected through the tender process will receive a grant of maximum BGN 371 607.70 (without VAT) for 1 MWh (EUR 190,000/MWh) of usable energy capacity of the facilities installed and put into operation for the storage of electricity (recital (27)), which is known to the participants before commencement of the tender process. Bulgaria also confirmed that the aid intensity of the investment grant will not exceed 50 % of the total eligible investment costs. According to Bulgaria, the eligible costs cover in particular expenditure on the acquisition of tangible fixed assets, expenditure on the acquisition of intangible fixed assets, costs of construction and installation works, costs of engineering services in connection with the design, costs for the construction of connection facilities and connection to the electricity grid, administrative costs for state and municipal fees in connection with registration, licensing and permitting regimes. On the other hand, costs for activities related to the electricity storage facilities which were carried out before 25 June 2024, costs for the purchase of second-hand tangible and intangible fixed assets; for the rental of tangible and intangible assets, for the purchase of land and buildings, for the purchase or hire of vehicles and equipment, for activities performed after the deadline for performance of the investment, for reimbursable value added tax,, among others, are explicitly excluded and cannot be considered as eligible costs. The costs for administrative service in permitting and licensing and engineering services in relation with design cannot exceed 10% from the eligible costs.

- (48) Bulgaria submitted the following cost elements to qualify as eligible cost under the scheme:
- expenditure on the acquisition of tangible fixed assets,
  - expenditure on the acquisition of intangible fixed assets,
  - costs of construction and installation works,
  - costs for the construction of connection facilities and connection to the electricity grid;
  - costs of engineering services in connection with the design;
  - administrative costs for state and municipal fees in connection with registration, licensing and permitting regimes.

According to the Bulgarian authorities the above costs are necessary and directly related to the electricity storage facility being built. The total of the costs of the last two elements (engineering services and administrative costs) may not be more than 10% of the total eligible costs.

#### 2.8.1.4. Maximum and minimum price

- (49) A maximum price threshold will also be imposed in advance of each tender, to protect against tacit collusion. This price is set at BGN 371 607.70 for 1 MWh of usable energy capacity of the storage facilities. This threshold is set based on the upper bound cost estimate of commonly deployed storage assets in Europe, based on a survey of manufacturers.

#### 2.8.1.5. Oversubscription and anti-concentration rules

- (50) The scheme will introduce a rule to ensure that a sufficient number of independent entities will participate in the tender process.
- (51) Total support provided to affiliated entities is limited to no more than 1/6 of the total capacity supported by the aid measure. Further, a maximum limit of €76 million of aid per facility will apply.
- (52) As mentioned in recital (13), pipeline data provided by the Transmission System Operator indicates that there are stand-alone storage projects with the total capacity of 4 042 MWh which possess concluded preliminary connection agreements or statements on connection and have a capacity of at least 10MW. These projects would therefore be eligible for participation in the tender. In addition to these projects, the TSO have provided a pipeline of 8 110 MWh storage project which have a capacity of at least 10 MW and are in initial stage of application for connection process.

#### 2.8.2. *Funding gap analysis*

- (53) The Bulgarian authorities provided estimations for a reference project of electricity storage with a capacity of 10 MW to be realised under the scheme.

The estimations include estimations for the cost of investment and operation, financing, and taxes as well as revenues from energy arbitrage and the ancillary services. The main financial figures are summarised in (54) Table 1 and described below.

*Table 1: Funding gap calculation for a reference electricity storage project in Bulgaria*

Item	Units	Value in 2024 real terms
CAPEX	EUR / MW	572 000
CAPEX	EUR / MWh	286 000
Capacity to Power Ratio	hrs [MWh / MW)	2
Capacity of Reference Project	MW	10
OPEX (unindexed)	EUR / MW	2 700
Project Lifetime	yrs	15
Residual Value at year 15	% CAPEX	0%
Project IRR	%	10%
Corporate Tax Rate	%	10%
Inflation Rate	%	2%
WACC	%	10%
Depth of Discharge	%	80%
Roundtrip Efficiency	%	85%
Project IRR Without Aid	%	2.2%
Project IRR With Aid	%	10%
NPV of Free Cashflows to Firm + Aid	EUR	6 282 359
NPV of Free Cashflows to Firm	EUR	3 518 464
Funding gap (rounded)	EUR	2 764 000

(55) According to the financial calculations for the reference project provided by Bulgaria summarised in Table 1 above, the net present value (NPV) of the expected revenues from energy arbitrage and balancing services over the 15 years assumed operational project lifetime amounts to 3 518 464 EUR, which corresponds to an internal rate of return (IRR) of the investment of approximately 2.2 %, which is not sufficient to incentivise the potential beneficiaries to realize such projects.

- (56) Bulgaria submits, that an IRR around 10% is required for the beneficiaries to make the investments. To achieve this, the reference funding gap calculation provided indicates that approx. 2 784 000 EUR is needed to reach a NPV of approx. 6 282 359 EUR, which corresponds to the required IRR of 10% for the reference project. This funding gap is approximately 48.3 % of the estimated total investment costs.
- (57) Bulgaria submits that the same effects cannot be achieved with less aid or a different form of aid. As shown below in Table 1, 50% aid intensity is slightly above the required level for projects to be considered financially viable by investors (aid intensity benchmarked also to the maximum cost of storage implied by the Greek storage auction results)<sup>(20)</sup>, which is a reasonable level of aid intensity to ensure competitiveness under the tender. Although alternative forms of aid, such as operational aid, could potentially achieve the same effect, they are not feasible under the RRP funding scheme, which requires funding to be received by the beneficiaries by the 30 June 2026. This effectively rules out the use of RRP funds for operational aid. It is also not feasible to obtain alternative funding for operational aid from the state budget within the required time frame.
- (58) Bulgaria submits, that the beneficiaries are expected to earn the remaining revenues to profitability from their operation on competitive electricity markets such as energy arbitrage (buying electricity when renewable generation with low operating costs are abundant, leading to low buying prices for electricity in the wholesale market and selling at times of high demand and low availability of electricity from renewable sources, driving up the wholesale prices) and ancillary services (in particular electricity balancing). According to the Bulgarian authorities the competition in these markets ensures the incentives for the beneficiaries to operate efficiently.

### 2.8.3. *Compliance with ‘do no significant harm’ principle*

- (59) The Bulgarian authorities confirmed that the scheme complies with the ‘do no significant harm’ principle. First, the investments to increase electricity storage capacities indirectly contribute to climate protection and reduction of greenhouse gas emissions, as they are deployed to integrate electricity produced by additional weather-dependent renewable energy generation units into the grid. Second, Bulgaria confirmed that the electricity storage capacities at the end of their lifetime and any electronic waste generated by the investments will be disposed of in accordance with the applicable national rules on waste management activities related to battery and accumulator waste and on waste management activities related to electrical and electronic equipment. Finally, with regard to the criteria set by the objective of protecting and restoring biodiversity and ecosystems, the investments under this scheme will be subject to the same criteria that apply to the investments on ensuring a flexible and secure electricity grid for the integration of weather-dependent renewable energy sources.
- (60) The Bulgarian authorities confirmed that the granting authority will require the applicants to declare compliance with the ‘do no significant harm’ principle and

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<sup>(20)</sup> RAE (10 August 2023), Decision of the Energy Branch of R.A.A.E.Y., Table 1; RAE (15 February 2024), Decision of the Energy Branch of R.A.A.E.Y., Table 1.

the applicable environmental legislation, as part of the eligibility check stage before the granting of the aid (recital (31)(a)).

## **2.9. Compliance with relevant provisions of Union law**

- (61) The Bulgarian authorities confirm that the measure does not by itself, or by the conditions attached to it or by its financing method constitute a non-severable violation of Union law.
- (62) The Bulgarian authorities confirm in particular that the provisions under EU law on ownership, development, management and operation of storage facilities, notably Articles 36 and 54 Directive 2019/944, will be complied with.

## **2.10. Cumulation**

- (63) The Bulgarian authorities confirmed that aid granted under the measure may not be cumulated with aid under the *de minimis* Regulations <sup>(21)</sup> or the General Block Exemption Regulation <sup>(22)</sup>.
- (64) The Bulgarian authorities confirmed that aid under the measure may not be cumulated with aid under a measure approved by the Commission under the COVID-19 Temporary Framework <sup>(23)</sup>.
- (65) The Bulgarian authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Crisis and Transition Framework provided the provisions in those specific sections are respected.

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<sup>(21)</sup> Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L 352, 24.12.2013, p. 1), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

<sup>(22)</sup> Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187 of 26.6.2014, p. 1), Commission Regulation (E U) 2022/2472 of 14 December 2022 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 327, 21.12.2022, p. 1) and Commission Regulation (EU) 2022/2473 of 14 December 2022 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 327, 21.12.2022, p. 82).

<sup>(23)</sup> Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).



## **2.11. Monitoring and reporting**

- (66) The Bulgarian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 3 of the Temporary Crisis and Transition Framework (including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting<sup>(24)</sup>).

## **3. ASSESSMENT**

### **3.1. Lawfulness of the measure**

- (67) By notifying the measure before putting it into effect, the Bulgarian authorities have respected their obligations under Article 108(3) TFEU (recital (10))

### **3.2. Existence of State aid**

- (68) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

#### *3.2.1. Imputability and State resources*

- (69) The measure is imputable to the State, since it is administered by the responsible Bulgarian authorities (recitals (11)-(13)) and it is based on a national legal act and the related implementing acts (recitals (8)-(10)).
- (70) As regards the State resources criterion, the Commission notes that the investment grant will be financed by the RRF.
- (71) The RRF funds are considered as State resources since Member States have the discretion to decide on the use of those resources. Once awarded, the RRF funds would be directly controlled by the Bulgarian State and the granting authority would be the relevant Ministry.
- (72) Therefore, the resources are deemed under State control and qualify as State resources.

#### *3.2.2. Economic Advantage*

- (73) The measure confers an advantage on its beneficiaries in the form of an investment grant for their storage facilities (recital(7)). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions, i.e. in the absence of the State intervention.

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<sup>(24)</sup> Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) 2022/2472 and Annex III to Commission Regulation (EU) 2022/2473.

### 3.2.3. *Selectivity*

- (74) The advantage granted by the measure is selective, since it is awarded only to undertakings active in the electricity storage sector (recital (14)), while other undertakings in a comparable legal and factual situation within other sectors are not eligible for aid and thus will not receive the same advantage.

### 3.2.4. *Impact on competition and on trade between Member States*

- (75) In accordance with settled case law <sup>(25)</sup>, for a measure to impact competition and trade it is sufficient that the recipient of the aid competes with other undertakings on markets open to competition.
- (76) The European electricity market has been liberalised and electricity producers engage in trade between Member States. The electricity stored by the beneficiaries of the measure will generally be sold on the market where it will enter in competition with electricity from different sources (such as electricity from other RES and conventional sources). Moreover, Bulgaria is interconnected with two neighbouring EU Member States for the exchange of electricity (recital (25)).
- (77) Therefore, the measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.

### 3.2.5. *Conclusion regarding existence of State aid*

- (78) In view of the above in this sub-section 3.2, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Bulgarian authorities do not contest that conclusion.

## 3.3. **Compatibility**

- (79) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (80) Pursuant to Article 107(3), point (c) TFEU, the Commission may declare compatible with the internal market ‘*aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest*’.
- (81) The current crisis has demonstrated the urgent need to reduce dependency on Russian fossil fuels imports and to accelerate the energy transition. In that context, the Commission considers that Member States may need to take additional measures in line with the REPowerEU Plan<sup>(26)</sup> and to accelerate the

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<sup>(25)</sup> Judgment of 30 April 1998, *Het Vlaamse Gewest v Commission*, T-214/95, EU:T:1998:77.

<sup>(26)</sup> Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, REPowerEU Plan (COM/2022/230 final).

decarbonisation of European industry in order to achieve the Union's climate targets.

- (82) The adoption of the Temporary Crisis and Transition Framework demonstrates the Commission's view that State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3), point (c) TFEU for a limited period of time if it contributes to speeding up the rollout of renewable energy, storage and renewable heat in line with the REPowerEU Plan.
- (83) The measure aims at enhancing the flexibility of the Bulgarian electricity system by supporting new electricity storage investments in order to facilitate the smooth integration of high capacity of variable RES in the Bulgarian electricity system (recital (25)). Furthermore, the measure has been designed to meet the requirements of the specific category of aid described in section 2.5 of the Temporary Crisis and Transition Framework.
- (84) The Commission considers that the measure is necessary, appropriate and proportionate to reduce the dependency on imported fuels in the current context and can be declared compatible with the internal market on the basis of Article 107(3), point (c) TFEU. In particular:
- The aid supports the accelerated rollout of renewable energy and energy storage relevant for the REPowerEU Plan. In particular, the measure supports all electricity storage<sup>(27)</sup> technologies and the Bulgarian authorities confirmed that they neither encourage nor discourage the use of any specific technology and that the scheme contains no rules that would limit the technology neutrality (recital (31)). Therefore, the measure facilitates the development of economic activities that can contribute to reducing the Union's dependency on imports of fossil fuels and to achieving its climate and energy targets. The measure also complies with points 77(a)(ii) of the Temporary Crisis and Transition Framework.
  - Bulgaria has demonstrated that the limited eligibility of the measure to electricity storage does not represent an artificial limitation and that discrimination on this basis is excluded. Indeed, the Bulgarian authorities confirmed that all electricity storage technologies are eligible for the tendering process (recital (31)). The measure therefore complies with points 77(c) of the Temporary Crisis and Transition Framework.
  - The investment grant will be granted in the form of direct grants, in line with point 77(e) of the Temporary Crisis and Transition Framework, during the construction of each storage facility. The size of the reference installation of 20 MWh capacity is also plausible, given the requirement for minimal capacity of 10 MW for the connection to the SCADA systems of the TSO. Considering the urgency of the challenge of reducing dependency on fossil fuel imports, the Commission considers that granting

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<sup>(27)</sup> As set out in footnote 107 of the Temporary Crisis and Transition Framework, electricity storage means deferring the final use of electricity to a moment later than when it was generated, or the conversion of electrical energy into a form of energy which can be stored, the storing of such energy, and the subsequent reconversion of such energy into electrical energy.

aid as well as the chosen aid instrument are appropriate to support the targeted economic activity.

- The Commission considers that, given the exceptional economic challenges that undertakings face due to the current crisis, it is generally the case that in the absence of the aid, beneficiaries would continue their activities without changes, unless any changes would be required to comply with Union law. As described in (recitals (53) to (58)), in the absence of aid, market players would face a funding gap of storage investments and thus without the State intervention, the required investments in storage capacity are not expected to take place in a timely manner and size to achieve the objective of the measure. This counterfactual scenario is considered realistic and does not entail a breach of Union law. Since in the absence of aid, the economic activity supported by the measure would not be undertaken, the Commission concludes that necessity of the aid and incentive effect are present. The Commission also notes that the IRR and WACC used for the reference project correspond to the profitability proposed in similar projects recently reviewed by the Commission <sup>(28)</sup>. The measure therefore complies with points 77(p) of the Temporary Crisis and Transition Framework.
- Aid will only be granted under the scheme for investments for which works started as of 25 June 2024 (recital (36)). The measure therefore complies with points 77(o) of the Temporary Crisis and Transition Framework.
- Aid is granted under the measure on the basis of a scheme with an estimated capacity volume and budget (recital (12)). The measure therefore complies with points 77(b) of the Temporary Crisis and Transition Framework.
- Aid will be granted by 31 December 2025 at the latest and the installations must be completed and be in operation within 36 months after the date of granting (recitals (13) and (44)). In addition, the measure includes, as described in recital (44), an effective system of penalties in case this deadline is not met. The measure therefore complies with points 77(d) of the Temporary Crisis and Transition Framework.
- Bulgaria has submitted elements that confirm that the competitive bidding process allocating the aid will be open, clear, transparent, non-discriminatory and effectively competitive, based on objective criteria that are defined *ex ante* and that minimise the risk of strategic bidding and undersubscription (recital (51)). In addition, the sole selection criterion used for ranking bids has been defined in terms of aid per unit of energy capacity (recital (45)). The assumptions for the funding gap analysis (recitals (53) to (57)) are in line with studies reviewed by the Commission

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<sup>(28)</sup> See e.g. Commission decision of 21 March 2023 in SA.102761 RRF - State aid scheme aimed at developing the electricity storage capacities in Romania, OJ C 162, 5.5.2023, p. 10; and Commission decision of 5 September 2022 in SA.64736 RRF - Greece - Financial support in favour of electricity storage facilities, OJ C 387, 7.10.2022, p. 1.

in the context of recent decisions <sup>(29)</sup> on electricity storage and the price increase expected for Li-ion batteries <sup>(30)</sup>. Bulgaria has submitted elements that confirm that the volumes of capacity tendered are set to ensure that the bidding process is effectively competitive (recitals (30) and (51)). Bulgaria has proven the plausibility that the volume tendered will match the potential offer of projects (recital (40)). In case of repeated undersubscription of competitive bidding processes, Bulgaria committed to introduce remedies for any future scheme that it notifies to the Commission for the same technology. Moreover, the aid does not exceed 100 % of the total investment costs (recital (47)). The measure therefore complies with points 77(f)(i) and 77(i)(i) of the Temporary Crisis and Transition Framework. On that basis, the Commission considers that the aid is limited to the minimum necessary. It can therefore be concluded that the aid is proportionate.

- Bulgaria confirmed that aid under the measure will only be granted with respect to newly installed electricity storage capacities. The investment aid will be granted based on the installed capacity and thus independent of the energy output. The measure therefore complies with point 77(l) of the TCTF.
- Bulgaria confirmed that aid under the measure will not be cumulated with other aid for the same eligible costs (recitals (63)-(65)). The measure therefore complies with points 77(m) and 77(n) of the Temporary Crisis and Transition Framework.
- Bulgaria confirmed compliance with the ‘do no significant harm principle’. Bulgaria confirmed that the storage appliances at the end of their lifetime, as well as any electronic waste, will be disposed in accordance with the applicable national rules on waste management and that the storage investments will be subject to criteria set for protecting and restoring biodiversity and ecosystems (recital (59)). The measure therefore complies with point 77(q) of the Temporary Crisis Framework.

- (85) State aid measures that entail, by themselves, by the conditions attached to them or by their financing method a non-severable violation of Union law cannot be declared compatible with the internal market.<sup>31</sup>
- (86) Bulgaria confirms that the proposed measures do not by themselves, or by the conditions attached to them or by their financing method constitute a non-severable violation of Union law. In addition, the Commission has no indications of any possible breach of Union law that would prevent the notified measure from being declared compatible with the internal market.

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<sup>(29)</sup> See e.g. Commission decision of 21 March 2023 in SA.102761 RRF - State aid scheme aimed at developing the electricity storage capacities in Romania, OJ C 162, 5.5.2023, p. 10.

<sup>(30)</sup> See e.g., in [IEA World Energy Investment 2022: https://www.iea.org/reports/world-energy-investment-2022/overview-and-key-findings](https://www.iea.org/reports/world-energy-investment-2022/overview-and-key-findings).

<sup>(31)</sup> Judgment of 31 January 2023, *Commission v Braesch and Others*, C-284/21 P, EU:C:2023:58, paras, 96 *et seq.*

- (87) In particular, the Bulgarian authorities confirm that the provisions under EU law on ownership, development, management and operation of storage facilities, notably Articles 36 and 54 Directive 2019/944, will be complied with.
- (88) Therefore, the Commission considers that the measure does not infringe any relevant provisions of Union law.
- (89) The Bulgarian authorities confirm that, as required by point 51 of the Temporary Crisis and Transition Framework, the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA (recital (5)).
- (90) The Bulgarian authorities confirm that, as required by point 52 of the Temporary Crisis and Transition Framework, the aid under the measure will not be granted to undertakings under sanctions adopted by the EU, including but not limited to: a) persons, entities or bodies specifically named in the legal acts imposing those sanctions; b) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or c) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions (recital (16)).
- (91) The Bulgarian authorities confirm that the monitoring and reporting rules laid down in section 3 of the Temporary Crisis and Transition Framework will be respected (recital (66)).
- (92) The Bulgarian authorities further confirm that the aid under the measure, will not be cumulated with other aid under the Temporary Crisis and Transition Framework, the COVID-19 Temporary Framework or other Regulations (recitals (63)-(65)). The Commission notes that Bulgaria has not introduced a scheme under section 2.5 of the previous Temporary Crisis Framework for the same eligible costs, and thus the scheme complies with point 95 of the Temporary Crisis and Transition Framework.
- (93) The Commission has taken due consideration of the fact that the measure facilitates the development of certain economic activities and of the positive effects of that measure, which contributes to speeding up the rollout of renewable energy, storage and renewable heat in line with the REPowerEU Plan. The Commission considers that the positive effects of the measure outweigh its potential negative effects on competition and trade and it is compatible with the internal market pursuant to Article 107(3), point (c), TFEU since it meets all the relevant conditions of the Temporary Crisis and Transition Framework.

#### **4. CONCLUSION**

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3), point (c) of the Treaty on the Functioning of the European Union.

Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President