COMMISSION DECISION (EU) 2022/258

of 21 February 2022

granting the Hellenic Republic a derogation from certain provisions of Regulation (EU) 2019/943 of the European Parliament and of the Council and Directive (EU) 2019/944 of the European Parliament and of the Council as regards Crete

(notified under document C(2022) 1140)

(Only the Greek text is authentic)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity ([1]), and in particular Article 64 thereof,

Having regard to Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU ([2]), and in particular Article 66 thereof,

Whereas:

1. PROCEDURE

(1) On 3 June 2021, the Hellenic Republic ('Greece') submitted to the Commission a request for derogation (the 'Application') for the island of Crete in accordance with Article 64 Regulation (EU) 2019/943 and Article 66 of Directive (EU) 2019/944. The Application asks for derogation from Articles 6, 7(1), 8(1), 8(4), 9, 10, 11 and 13 of Regulation (EU) 2019/943, and from Article 40(4) to (7) of Directive (EU) 2019/944, for a limited period of time, namely until 31 December 2023.

(2) On 1 July 2021, the Commission published the Application on its website ([3]) and invited Member States and stakeholders to provide comments until 12 August 2021.

2. THE ISLAND OF CRETE

(3) The Greek island of Crete is located in the Mediterranean Sea, south of the continental mainland of Greece. It was until 3 July 2021 an autonomous power system, not connected to the continental national electricity system.

(4) Following Commission Decision 2014/536/EU ([4]), which granted Greece a derogation from certain provisions of Directive 2009/72/EC of the European Parliament and of the Council ([5]), Crete was considered as a small isolated system within the meaning of Article 2(42) of Directive (EU) 2019/944. High voltage assets in Crete are owned by Public Power Cooperation S.A. ('PPC S.A.') and operated by the Distribution System Operator ('HEDNO S.A.'). As the island was not interconnected with mainland Greece, Crete could not be part of the Greek Day-Ahead, Intraday and Balancing Markets launched in November 2020.

([1]) OJ L 158, 14.6.2019, p. 54.
([2]) OJ L 158, 14.6.2019, p. 125.
([3]) https://ec.europa.eu/energy/sites/ener/files/documents/derogation_decisions2020v1.pdf
([4]) Commission Decision 2014/536/EU of 14 August 2014 granting the Hellenic Republic a derogation from certain provisions of Directive 2009/72/EC of the European Parliament and of the Council (notified under document C(2014) 5902) (OJ L 248, 22.8.2014, p. 12).
([5]) Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L 211, 14.8.2009, p. 55).

(5) Pursuant to Article 4 of Commission Decision 2014/536/EU, the derogations provided for are no longer to apply to small and micro isolated systems once they are interconnected with the interconnected system. Regardless of that, the Greek authorities terminated the derogation granted by that Decision as regards Crete as of 1 January 2017 ([6]).

The electricity system

(6) Greece has prioritised Crete's grid connection to the continental electricity system as a project of major importance, in order to secure it with a safe and reliable electricity supply. More specifically, the grid connection of Crete, as approved by the Greek Regulatory Authority ('RAE') through the Ten-Year Network Development Plans, addressing the periods 2017 to 2026, 2018 to 2027 and 2019 to 2028 respectively, is to be implemented in two phases.

(7) The first phase ('Phase I') concerns the grid connection of the western part of Crete (Chania Prefecture) to the Peloponnese peninsula by HVAC lines, representing a Nominal Transfer Capacity of approximately 150 MW. Therefore, the completion of Phase I is expected to cover only a part of Crete's needs in electricity (approximatively one third of Crete's electricity consumption, which is 710 MW peak and 3 TWh annual consumption), and will not integrate Crete as a fully interconnected part of the Greek electricity system. The interconnector between the continental electricity system and Crete is expected to operate at or close to its maximum capacity, in view that its capacity does not fully cover the demand of Crete, and electricity will be imported to Crete from the mainland interconnected system due to lower generation costs. The project started operation in trial period from 3 July 2021 ([7]), and in commercial period from 1 November 2021 ([8]).

(8) The second phase ('Phase II') refers to the interconnection of the central part of Crete (Heraklion Prefecture) to mainland Greece (Attica region) by means of two HVDC cables, representing a Nominal Transfer Capacity of approximately 1 000 MW. At the end of Phase II, the island of Crete is expected to be fully interconnected to the continental electricity transmission system and the electricity demand on the island is to be fully covered. The Phase II cables are expected to be operational by 2023.

(9) Greece explain that, by the start of the commercial operation of the interconnector developed in Phase I, the high voltage electricity network of Crete was to be transferred to the Greek Transmission System Operator ('IPTO S.A.'), which will own and operate those assets from this date. HEDNO S.A. would no longer operate the high voltage network of Crete, but would still operate the low and medium voltage networks. This transfer took place on 1 August 2021, before the start of the commercial operation of the Phase I of the interconnector between Crete and the Greek continental system.

The electricity market of Crete

(10) Currently, producers and suppliers on the island of Crete do not submit any bids in the Greek market and the units are dispatched according to their minimum variable costs. The wholesale clearing price for electricity in Crete is calculated on a monthly basis, based on the variable and total costs of the conventional power units, namely PPC's units, since the incumbent is the only conventional power generator on the island. In addition, there are several renewables producers with a fixed tariff pursuant to a power purchase agreement or a fixed tariff depending on the date of the start of operation of each unit.

(11) From completion of Phase I until the completion of Phase II and the full interconnection of Crete to the Greek continental electricity system ('transitional period'), the grid connection between Crete and the continental electricity system will be structurally congested. Without derogation, the two following options are possible:

([6]) Article 137A of Law 4001/2011 (Government Gazette A 179/22.8.2011).

([7]) See Article 108B of Law 4001/2011 (Government Gazette A 179/22.8.2011) as added by Article 106 of Law 4821/2021 (Government Gazette A 134/31.7.2021).

([8]) Pursuant to Article 108C of Law 4001/2011 as added by Article 107 of Law 4821/2021, the Greek Transmission System Operator IPTO S.A. was obliged to fully operate the interconnection of Crete (Phase I) at the latest by 30 September 2021. However, this date was postponed to 1 November 2021 by RAE Decision No 734/28.09.2021 (Government Gazette B 4633/6.10.2021).

(a) the integration of Crete into the Greek bidding zone in the electricity wholesale market which would entail high redispatching costs, estimated around EUR 240 million per year by IPTO S.A based on 2019 data;

(b) the integration of Crete into the electricity wholesale market as a separate bidding zone. That appears as a non-sustainable solution for a short term period, since the completion of Phase II, which is expected to take two years, should relieve any structural congestion between the Cretan and the Greek continental electricity network.

(12) Besides, Crete lacks adequate metering infrastructure to allow a proper integration in the Greek electricity wholesale market before 2023.

(13) Currently, the retail market in Crete is open to all suppliers active on the Greek market, twenty of which are active in Crete. Given the fact that the generation costs in the island of Crete are higher than the costs of the Greek interconnected electricity system, Greece, for reasons of social cohesion, opted for the application by the suppliers of a single tariff for each category of customers, throughout its entire territory.

3. **THE REQUESTED DEROGATIONS**

(14) The requested derogations from Articles 6, 7(1), 8(1), 8(4), 9, 10, 11 and 13 of Regulation (EU) 2019/943 and from Article 40(4) to (7) of Directive (EU) 2019/944 aim at finding a solution for the operation of the electricity day-ahead, intraday and balancing market in Crete. Such solution would apply during the transitional period of the interconnection of Crete to the Greek continental electricity system. The derogations will therefore end on the completion of Phase II ([9]).

(15) The applicant proposes a 'hybrid model' for the transitional period, under which the interconnector between Crete and the Greek continental electricity system will be treated as a balance responsible party in the meaning of Article 2(14) of Regulation (EU) 2019/943. Such party will act most of the time as a virtual electricity generation unit from the perspective of Crete and a virtual load from mainland perspective, importing electricity from the mainland Greece to Crete. That flow could be reversed in case of high generation from renewables in Crete, exceeding its load, in order to avoid any curtailment of renewables. The balance responsible party for the interconnection of Crete will physically connect to the Greek continental system on the high voltage side of the Chania substation. Its withdrawn or injected electricity to the Greek continental system will be recorded by the metering infrastructure of the HV Chania substation.

(16) Possible modalities for participation of the virtual Balancing Responsible Entity in the market operated on the Greek continental electricity system have been evaluated by RAE following a public consultation held from 25 May 2021 until 9 June 2021.

(17) In the proposed 'hybrid model', the Greek electricity power exchange HEnEX would submit price-taking electricity bids on behalf of Cretan market parties in the Greek electricity day-ahead and intraday wholesale market, according to *ex ante* forecasts computed by the IPTO S.A. and the HEDNO S.A. Greece proposes two options which were submitted to public consultation by RAE from 25 May 2021 until 9 June 2021. Those two options set out in detail how bidding can be carried out in practice, with or without separation between load and generation. The two options are the following:

(a) Option 1: priority price taking buying or selling orders corresponding explicitly to the electricity quantities for the balance responsible party for the interconnection of Crete will be submitted by HEnEx on behalf of load representatives supplying electricity to end-consumers in Crete, in accordance with their supply percentage ratio calculated *ex ante* on a monthly basis by HEDNO S.A., as regards forecasted imports in Crete from mainland Greece, or by the Operator of Renewable Energy Sources & Guarantees of Origin ('DAPEEP') for renewable electricity, in the rare case of forecasted exports from Crete to mainland Greece;

([9]) Greece has not requested a derogation from Article 51 of Regulation (EU) 2019/943 (certification of transmission system operators) or from provisions of Chapter VI of Directive (EU) 2019/944 (unbundling of Transmission System Operators). Indeed, Greece declares that the high voltage assets on the island of Crete, today owned by PPC and operated by HEDNO S.A., will be transferred to the Transmission system operator IPTO S.A., who will then exercise ownership and operation over those assets. This transfer took place on 1 August 2021, before the start of the commercial operation of the Phase I of the interconnector between Crete and the Greek continental system.

(b) Option 2: priority price taking buying or selling orders for the whole local load and generation of Crete will be submitted by HEnEx on behalf of load representatives in accordance with their supply percentage ratio calculated *ex ante* on a monthly basis by HEDNO S.A. and on behalf of thermal producers reflecting the energy schedules determined by IPTO S.A. on the basis of the results of a simplified dispatch schedule, and by DAPEEP for forecasted renewables electricity.

Financial settlement of imbalances would be charged *ex post* to Cretan market parties, on the basis of comparison between the schedule of the interconnector and the metered flow, and a sharing key computed by HEDNO S.A.

(18) During the public consultation performed by RAE, 11 contributions were submitted ([10]). On the basis of the results and the request of the majority of the respondents to minimise the financial impact of the option to be implemented, as regards the required financial guarantees and collaterals, RAE selected in June 2021 the implementation of Option 2.

(19) In order to implement Option 2 hybrid model for the operation of the Cretan electricity wholesale market and electricity balancing, applicable to the transitional period, Greece requests a derogation from certain requirements set out in Regulation (EU) 2019/943 and Directive (EU) 2019/944, as regards the Crete system.

3.1. **Derogation pursuant to Article 64 of Regulation (EU) 2019/943**

(20) Greece considers that the proposed hybrid model complies with the principles governing the operation of the electricity markets, as provided for by Article 3 of Regulation (EU) 2019/943. For that reason, the requested derogations do not include Article 3 of that Regulation.

3.1.1. *Article 6 of Regulation (EU) 2019/943*

(21) Article 6 of Regulation (EU) 2019/943 sets out the rules for the balancing market. Greece requests a derogation from that Article as regards Crete in view that no balancing market will be operated in the hybrid model.

3.1.2. *Article 7(1) of Regulation (EU) 2019/943*

(22) Article 7(1) of Regulation (EU) 2019/943 refers to the organisation of the management of the integrated day-ahead and intraday markets by transmission system operators (TSOs) and nominated electricity market operator (NEMOs), in accordance with Commission Regulation (EU) 2015/1222 ([11]). Greece requests a derogation from that Article as regards Crete, as no intraday and day-ahead market will be operated in the hybrid model.

3.1.3. *Article 8(1) and (4) of Regulation (EU) 2019/943*

(23) Article 8(1) of Regulation (EU) 2019/943 sets the obligation for NEMOs to allow market participants to trade energy up to the intraday cross-zonal gate closure time. Article 8(4) of that Regulation sets the obligation to set out the imbalance settlement period to 15 minutes in all scheduling areas. Greece requests a derogation from those Articles as regards Crete in view that the hybrid model does not include day-ahead and intraday trade, nor include a 15 minutes imbalance settlement period for Crete.

3.1.4. *Article 9 of Regulation (EU) 2019/943*

(24) Article 9 of Regulation (EU) 2019/943 refers to forward markets. Greece requests a derogation from that Article as regards Crete in view that no forward markets will be operated in the hybrid model.

([10]) Non confidential responses are available on RAE's website.

([11]) Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (OJ L 197, 25.7.2015, p. 24).

3.1.5. *Article 10 of Regulation (EU) 2019/943*

(25) Article 10 of Regulation (EU) 2019/943 refers to technical bidding limits. Greece requests a derogation from that Article in view that Crete will not be fully integrated in the Greek electricity wholesale market in the hybrid model, and price taking orders can be submitted for Crete.

3.1.6. *Article 11 of Regulation (EU) 2019/943*

(26) Article 11 of Regulation (EU) 2019/943 refers to the determination of the value of lost load. Given that Crete would not be considered as a separate bidding zone, nor completely integrated in the Greek bidding zone, Greece requests a derogation from that Article as regards Crete.

3.1.7. *Article 13 of Regulation (EU) 2019/943*

(27) Article 13 of Regulation (EU) 2019/943 refers to redispatching. Given that the absence of operation of a balancing market in Crete entails the non-application of redispatching rules, Greece requests a derogation from that Article as regards Crete.

3.2. **Derogation pursuant to Article 66 of Directive (EU) 2019/944**

3.2.1. *Article 5 of Directive (EU) 2019/944*

(28) In its Application, Greece requested a derogation from the fundamental principle of market-based electricity supply prices in accordance with Article 5(3) of Directive (EU) 2019/944. That request was withdrawn on 15 July 2021. Therefore, no further analysis is required in this decision.

3.2.2. *Article 40(4), (5), (6) and (7) of Directive (EU) 2019/944*

(29) Article 40 of Directive (EU) 2019/944 sets out the tasks of TSOs. Paragraphs 4 to 7 set out the principles for procuring ancillary services, including non-frequency ancillary services. Given the absence of operation of a balancing market and a market-based procurement of non-frequency ancillary services in Crete, Greece requests a derogation from Article 40, paragraphs (4) to (7) for the TSO tasks applicable to Crete.

3.3. **Duration of the requested derogation**

(30) Greece requests the derogation for the duration of the transitional period, starting with the commissioning of Phase I expected in the second quarter of 2021, until the commissioning of Phase II expected by end 2023.

4. **COMMENTS RECEIVED DURING THE CONSULTATION PERIOD**

(31) During the consultation, the Commission received a contribution from Bulgarian authorities, who communicated that they do not raise any objections against the application for derogation made by Greece.

5. **ASSESSMENT**

(32) In accordance with Article 64 of Regulation (EU) 2019/943, a derogation from the relevant provisions of Articles 3 and 6, Article 7(1), Article 8(1) and (4), Articles 9, 10 and 11, Articles 14 to 17, Articles 19 to 27, Articles 35 to 47 and Article 51 of that Regulation can be granted if the Member State can demonstrate that there are substantial problems for the operation of small connected systems.

(33) In accordance with Article 66 of Directive (EU) 2019/944, a derogation from the relevant provisions of Articles 7 and 8 and of Chapters IV, V and VI of that Directive can be granted if the Member State can demonstrate that there are substantial problems for the operation of small isolated systems or small connected systems. Small isolated systems can also apply for a derogation from Articles 4, 5 and 6 of that Directive.

(34) Other than in the case of outermost regions, the derogation is to be limited in time and subject to conditions aiming to increase competition and integration with the internal market for electricity.

(35) Finally, the derogation is to aim at ensuring that it does not obstruct the transition towards renewable energy, increased flexibility, energy storage, electromobility and demand response.

5.1. **Small connected system**

(36) Regulation (EU) 2019/943 does not provide for generalised automatic derogations for small connected or small isolated systems. Therefore, notwithstanding the large variety in size and technical characteristics of electricity systems in the Union, all such systems can and are to be operated in accordance with the full regulatory framework.

(37) However, Article 64(1) of Regulation (EU) 2019/943 provides for a derogation from the application of certain provisions of that Regulation where Member States show, amongst others, that the application of those provisions to small connected systems could lead to substantial problems to their operation, notably due to the geographical conditions or demand profiles relevant for the systems in question.

(38) Article 2 point (43) of Directive (EU) 2019/944 defines 'small connected system' as 'any system that had consumption of less than 3 000 GWh in the year 1996, where more than 5 % of annual consumption is obtained through interconnection with other systems'.

(39) The island of Crete constitutes a small connected system, because its consumption was below the threshold of 3 000 GWh in 1996. With the completion of Phase I, around one third of the annual consumption of Crete will be covered by the interconnection with the Greek continental electricity system.

(40) Thus, with the completion of Phase I, Crete qualifies as a small connected system within the meaning of Article 64(1), point (a) Regulation (EU) 2019/943.

5.2. **Substantial problem for the operation of the system**

(41) The term 'substantial problems' referred to in Article 64(1), point (a) of Regulation (EU) 2019/943 has been defined neither by the legislator nor by the Commission in its decision-making practice. The open formulation allows the Commission to take into account all potential problems related to the particular situation of small systems, provided they are substantial and not only marginal. Such problems can vary significantly depending on the geographical particularities, production and consumption of the system in question, but also on the basis of technical developments, such as electricity storage and small generation. Furthermore those substantial problems need to be in relation to the operation of the small isolated systems and small connected systems.

(42) Greece highlights the following problems for the operation of the electricity market in Crete, in case of a full integration of Crete market participants in the Greek electricity markets operating on the continental interconnected system, through extending the Greek bidding zone to Crete or through the creation of a new Cretan bidding zone:

(a) the metering infrastructure inadequacies will not allow the full participation of Crete market participants in the day-ahead, intraday and balancing electricity markets of Greece. In particular, the necessary metering systems are not in place and will not be ready before 2023;

(b) the new interconnector (Phase I) needs to be ready to use from the day of its commissioning in order to avoid any extra cost for Greek consumers. Indeed, the electricity exchanges on that interconnector will decrease the generation from the most expensive thermal units in Crete, thus decreasing the total cost of electricity supplied in Crete and the corresponding PSO charge supported by Greek consumers. It would also reduce CO_2 emissions;

(c) the interconnector resulting from the completion of Phase I will be used to its maximum available capacity, and is expected to be congested most of the time, until the completion of Phase II. The full application of Regulation (EU) 2019/943 and Directive (EU) 2019/944 would lead to the integration of Crete in the electricity markets, through a single or two bidding zones, leading to the following two scenarios:

— one bidding zone: the integration of Crete in the electricity wholesale market through the Greek mainland bidding zone would entail high redispatching costs, estimated by IPTO S.A. to be around 240 million euro per year on an estimation based on 2019 data and to be supported by Greek consumers,

— two bidding zones: the integration of Crete into the electricity wholesale market as a separate bidding zone would not be a sustainable solution. The completion of Phase II following a short transition period is expected to relief any structural congestion between the electricity network of Crete and the Greek continental electricity network.

(43) In the light of what has been said in recitals (41) and (42), Greece notes that a solution applicable to the transitional period needs to be found. Since Phase 1 started in trial period from 3 July 2021 and in commercial period from 1 November 2021, that solution needs to be implemented smoothly and in a short time period, without important changes to the current legal and regulatory framework, given the need for the market participants to adapt and the temporary nature of the solution. In that respect, the 'two bidding zones' approach seems incompatible with the time constraints, especially when considering the process which needs to be followed to establish a new bidding zone, in accordance with Article 14 of the Regulation (EU) 2019/943 and Article 32 of the Regulation (EU) 2015/1222.

(44) Based on an assessment performed by IPTO S.A. and evaluating the costs for the operation of the market in Crete under the three scenarios, namely the hybrid model suggested by the Application, the one bidding zone approach and the two bidding zones approach, the resulting annual benefits of the hybrid model are estimated to amount to EUR 156 million. As regards the other two scenarios, namely the one bidding zone approach and the two bidding zones approach, the annual benefit is estimated to amount to EUR 121 million, and EUR 113 million respectively. Therefore, Greece considers the proposed hybrid model would be the optimal approach during the transitional period.

(45) The Greek authorities have pointed out that the actual participation of Crete's market participants into the Greek electricity market is hampered by the lack of appropriate metering infrastructure on the island (see recital 42 above).

(46) Moreover, while the use of the new interconnector (Phase I) would bring about considerable advantages, by reducing the cost of electricity supplied in the island and CO_2 emissions, the interconnector is expected to be congested most of the time, until the completion of Phase II (see recital 7 and 42 above).

(47) For those reasons, the integration of Crete's market participants into the Greek electricity market would cause high redispatching costs if carried out through the extension of the Greek bidding zone to Crete (see recital 7 and 42 above). On the other hand, the creation of a separate bidding zone for Crete is not proportionate for a short period of time and given that the completion of phase II should relieve any structural congestion between the electricity network of Crete and the Greek continental electricity network (see recital 8 and 43 above).

(48) In light of what has been said in recitals (42) to (47) as well as in recitals (7) and (8), the Commission concludes that Greece has demonstrated that there are substantial problems for the operation of the electricity system in Crete as a small connected system, until the full interconnection to the continental grid is completed. The temporary hybrid model proposed by the Greek authorities aims at addressing those problems and yields significant benefits compared to the full integration of the Crete's system into the Greek electricity market during the transitional period.

5.3. **Scope of the derogation**

(49) In order to implement the hybrid model for the island of Crete during the transitional period, derogations from the provisions of Articles 6, 7(1), 8(1) and 8(4), 9, 10 and 11 of Regulation (EU) 2019/943 and from Article 40(4) to (7) of Directive (EU) 2019/944 are necessary.

(50) Article 64 of Regulation (EU) 2019/943 does not address the possibility of a derogation from its Article 13. However, given the derogation, where a derogation is granted, from Articles 6, 7(1) and 8(1), Article 13 will *de facto* not be applicable. Indeed, Article 2 point (26) of Regulation (EU) 2019/943 defines 'redispatching' as a measure, including curtailment, that is activated by one or more transmission system operators or distribution system operators by altering the generation, load pattern, or both, in order to change physical flows in the electricity system and relieve a physical congestion or otherwise ensure system security. The underlying rationale is that the system operator corrects the market outcome to ensure that it is coherent with the physical capabilities of the network. Where the fundamental market framework is not yet applicable, that correction has no added merit.

(51) Furthermore, redispachting is performed in mainland Greece using the balancing bids, in accordance with Article 13(2) of the Regulation (EU) 2019/943. The absence of balancing markets in Crete for the duration of the derogation would thus not enable integration into the Greek redispatching methodology.

(52) Consequently to recitals (49), (50) and 51), Article 13 of Regulation (EU) 2019/943 will be *de facto* not applicable. The Commission is however not empowered to adopt a decision with regard to that provision and therefore will not grant a formal derogation in that respect.

(53) According to the hybrid model, in Crete, the Greek Transmission System operator IPTO S.A. will not procure balancing services and non-frequency ancillary services in accordance with Article 40(4) to (7) of Directive (EU) 2019/944, as a result of the derogation from Articles 6 and 7(1) of Regulation (EU) 2019/943.

(54) Therefore the derogation is applicable only to Crete.

5.4. **No obstruction to the transition towards renewable energy, increased flexibility, energy storage, electromobility and demand response**

(55) Pursuant to Article 64(1), fifth subparagraph, of Regulation (EU) 2019/943 a derogation decision is to ensure that it does not obstruct the transition towards renewable energy, increased flexibility, energy storage, electromobility and demand response.

(56) Until its at least partial interconnection to mainland Greece, technical limitations were applied to Crete, imposing a maximum penetration of renewables to 25 % of the load, due to operational security constraints. The completion of Phase I will relieve that limitation imposed on renewables. The hybrid model allows Crete to export its electricity in case of low load and high renewables generation, in order to avoid curtailment of renewables.

(57) As regards increased flexibility, energy storage and demand response, the possibility of offering flexibility services, including storage, to support the electric system depends on the quality of the price signals and their ability to provide efficient investment and dispatch incentives to those service providers. As a rule, structural congestion within a bidding zone, which will be the case during the transitional period from Phase I to Phase II, can result in distorted investment signals for location-specific flexibility services. However, in a two bidding zone approach for Crete and mainland Greece, the investment signal would be highly unstable, given the timeframe for the completion of Phase II and the full interconnection of Crete to mainland Greece, which will relieve structural congestion. Therefore, since the connection to the mainland will enable market-based provision of flexibility services, a short-term derogation which enables rapid integration of Crete into the mainland system is beneficial to the integration of demand response, energy storage and other flexibility sources.

(58) Article 64 of Regulation (EU) 2019/943 does not require derogation decisions to maximise the potential for flexibility or energy storage, but only to aim to ensure that the derogation does not obstruct it. In other words, the derogation must not prevent developments, which, without the derogation, would occur naturally. In that respect, the temporary status of the derogation, and the readiness for a full market operation as soon as Phase II is completed, is of utmost importance.

(59) Therefore, while the derogation does not obstruct the transition towards increased flexibility including energy storage, it is important to take into account the need for appropriate investment signals and the derogation's impact on possible storage or other flexibility investments.

(60) Given its transitional aspect, the hybrid model has no noticeable impact on the further development of renewable energy, flexibility, energy storage, electromobility and demand response.

(61) Pursuant to Article 64(1) of Regulation (EU) 2019/943, the Commission shall set out to what extent the derogation is to take into account the application of the network codes and guidelines. Except for the provisions affected by the scope of the derogation detailed in Section 5.3 above, the network codes and guidelines are applicable to Crete.

5.5. **Limitation of the derogation in time and conditions aiming to increase competition and integration with the internal market for electricity**

(62) Article 64 of Regulation (EU) 2019/943 expressly sets out that the derogation must be limited in time and must be subject to conditions aiming to increase competition and integration with the internal market for electricity.

(63) The derogation request is limited to the transitional period extending to the end of 2023 at the latest.

(64) It is understood, that by the end of 2023, the interconnector between Crete and the Greek continental system is expected to be operational, together with the appropriate metering infrastructure enabling Crete to become part of the Greek wholesale electricity markets. Any further delay would require a new derogation request.

5.6. **Time of effect**

The Application has been received prior to the completion of Phase I. In order to avoid rapid and unpredictable changes of the regulatory framework, which could seriously harm market functioning on the island of Crete and possibly in mainland Greece, this Decision should apply from the start date of operation of Phase I,.

HAS ADOPTED THIS DECISION:

Article 1

A derogation is granted to the Hellenic Republic from the provisions of Articles 6, 7(1), 8(1) and (4), 9, 10 and 11 of Regulation (EU) 2019/943 and from the provisions of Article 40(4) to (7) of Directive (EU) 2019/944, as regards Crete.

Article 2

The derogation granted under Article 1 shall apply until 31 December 2023 or until the completion of Phase II of the interconnection between Crete and mainland Greece, whichever comes first.

Article 3

The Hellenic Republic shall inform the European Commission by the end of 2022 of the progress and remaining planning towards the completion and commercial operation of Phase II of the interconnection between Crete and mainland Greece, including regarding the deployment and operation of the adequate metering infrastructure allowing the participation of Crete in the Greek wholesale and balancing market.

Article 4

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 21 February 2022.

For the Commission
Kadri SIMSON
Member of the Commission