

NOTE: Level of harmonisation by

COMMISSION REGULATION (EU) 2016/631 of 14 April 2016 establishing a network code on requirements for grid connection of generators

The question here is how the (existing and future) standards relate to this regulation.

In the first instance, one needs to look at the considerations of the regulation itself:

Consideration 2: (...)Those requirements that contribute to maintaining, preserving and restoring system security in order to facilitate proper functioning of the internal electricity market within and between synchronous areas, and to achieve cost efficiencies, should be regarded as cross-border network issues and market integration issues..

Consideration 27: The regulatory authorities, Member States and system operators should ensure that, in the process of developing and approving the requirements for network connection, they are harmonised to the extent possible, in order to ensure full market integration. Established technical standards should be taken into particular consideration in the development of connection requirements.

Considering that this is a regulation and does not need to be transposed, the Member States have no appreciation margin when complying with it.

However, this regulation cannot be read without taking into consideration the Directive 2009/72/EG (Third Energy package). Article 5 reads as follows:

Article 5

Technical rules

The regulatory authorities where Member States have so provided or Member States shall ensure that technical safety criteria are defined and that technical rules establishing the minimum technical design and operational requirements for the connection to the system of generating installations, distribution systems, directly connected consumers' equipment, interconnector circuits and direct lines are developed and made public. Those technical rules shall ensure the interoperability of systems and shall be objective and non-discriminatory (...)

In case these (national) safety criteria conform to European standards, the harmonisation requirements are met for the most part.

Only in the case where additional (safety) measures would undermine the purpose of the Regulation, whereby the interconnectivity is rendered impossible or possible only at unreasonable conditions, these measures will be in conflict with the Regulation and will be considered illegitimate. Such consideration will primarily be a question of facts (technical discussion).

If at the level of our national market it would be necessary to deviate from the rules imposed by the TSO, conform to this regulation (technical necessity), it is possible to invoke article 60 of the Regulation.

This Regulation obviously does not claim to be a network code encompassing all rules, since this would mean that all existing standards (in the entire EU) become invalid insofar they are not

included in the Regulation. On the other hand, the provisions which are included (and accepted by the TSO) are no longer subject to modification. Supplementary rules (ideally also harmonised, like the EU standards) are possible insofar they have no unreasonable negative influence on the cross-border transactions.