

**DECISION No 11/2018
OF THE AGENCY FOR THE COOPERATION OF
ENERGY REGULATORS**

of 16 October 2018

**ESTABLISHING THE CAPACITY BOOKING PLATFORM TO BE USED AT
‘MALLNOW’ INTERCONNECTION POINT AND ‘GCP’ VIRTUAL
INTERCONNECTION POINT**

THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

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

Having regard to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators¹, and, in particular, Article 8(1) thereof,

Having regard to Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013², and, in particular, Article 37(3) thereof,

Having regard to the outcome of the consultations with the concerned national regulatory authorities and transmission system operators,

Having regard to the favourable opinion of the Board of Regulators of 15 October 2018, delivered pursuant to Article 15(1) of Regulation (EC) No 713/2009,

Whereas:

1. INTRODUCTION

- (1) Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems (the ‘CAM NC’) laid down a range of requirements for transparent and non-discriminatory access conditions to natural gas transmission systems for all network users. These requirements also include the obligation for transmission system operators (‘TSOs’)

¹ OJ L211, 14.8.2009, p. 1.

² OJ L72, 17.3.2017, p.1.

to offer capacity by means of one or a limited number of joint web-based booking platforms in accordance with Article 37 of the CAM NC.

- (2) Pursuant to Article 37(3) of the CAM NC, TSOs are required to reach a contractual agreement to use a single booking platform to offer capacity on an interconnection point ('IP') or virtual interconnection point ('VIP'). The agreement should be reached within six months from the entry into force of the CAM NC. If no agreement is reached by the TSOs within that period, the matter shall be referred immediately by the TSOs to the respective national regulatory authorities ('NRAs'). The NRAs shall then, within a further period of six months from the date of referral, jointly select the single booking platform for a period not longer than three years. When the NRAs fail to reach an agreement within the six-month period, the Agency is called upon to adopt a decision concerning the booking platform to be used, for a period no longer than three years, at the specific IP or VIP, in accordance with Article 8(1) of Regulation (EC) No 713/2009.

2. PROCEDURE

2.1 Proceedings before regulatory authorities

- (3) As Operator Gazociągów Systemowych GAZ-SYSTEM S.A. (Poland) and Gascade Gastransport GmbH and Ontras Gastransport GmbH (Germany) did not reach an agreement on the use of a single booking platform at the 'Mallnow' IP or at the 'GCP' VIP, they referred the matter to the concerned NRAs, BundesNetzAgentur (BNetzA) for the Federal Republic of Germany and Prezes Urzędu Regulacji Energetyki (URE) for the Republic of Poland, on 6 and 16 October 2017, respectively.
- (4) The concerned NRAs did not reach an agreement on the use of a single booking platform within six months starting on 16 October 2017, the date on which the latest referral was received by them. The concerned NRAs did not request an extension of the six-month period.

2.2 Proceedings before the Agency

- (5) In an email and letter dated 13 April 2018 and received by the Agency on the same day, URE informed the Agency that URE and BNetzA were not able to jointly select a single booking platform for two interconnection points on the German-Polish border, and thus referred the matter to the Agency, pursuant to Article 37(3) of the CAM NC and Article 8(1) of Regulation (EC) No 713/2009. The letter of BNetzA confirming the same facts and referral was dated 19 April 2018 and received by the Agency on the same day. Thus the matter was referred to the Agency on 19 April 2018, the date of the last referral.
- (6) On 18 May 2018, the Agency consulted the concerned NRAs and TSOs. The Agency first met the NRAs in a hand-over meeting and then all parties met in a hearing, all of which took place in Ljubljana.

- (7) On 5 June 2018, the Agency launched a public consultation on the criteria to be used when evaluating booking platforms, inviting all stakeholders, including NRAs and TSOs, to submit their comments by 27 June 2018. The Agency received 29 responses during the consultation and, out of those responses, 26 respondents used the excel template provided by the Agency. The summary and the evaluation of responses received were published on the website of the Agency on 4 September 2018³.
- (8) On 19 June 2018, the Agency held a public workshop in Ljubljana on the criteria to be used when choosing a booking platform, which was attended by 16 participants.
- (9) On 19 July 2018, the Agency sent letters to the Capacity Booking Platform Operators requesting them to submit offers for capacity booking services at 'Mallnow' IP and 'GCP' VIP by 10 August 2018. The request consisted of the submission requirements, the selection criteria and the award criteria. The Agency received three offers, from Operator Gazociągów Systemowych GAZ-SYSTEM S.A. ('Gaz-System') acting as the GSA Platform ('GSA'), PRISMA European Capacity Platform GmbH ('PRISMA') and FGSZ Natural Gas Transmission Closed Company Limited ('FGSZ') acting as the Regional Booking Platform ('RBP').

3. THE AGENCY'S COMPETENCE TO DECIDE ON THE CAPACITY BOOKING PLATFORM TO BE USED AT 'MALLNOW' IP AND 'GCP' VIP

- (10) Pursuant to Article 37(3) of the CAM NC, if the concerned NRAs are not able to jointly select a single booking platform within 6 months from the date of referral by the concerned TSOs, the Agency shall decide on the booking platform to be used.
- (11) According to the letters from the concerned NRAs, they referred the matter to the Agency, as they did not reach an agreement within the 6-month period.
- (12) Therefore, under the provisions of Article 37(3) of the CAM NC and Article 8(1) of Regulation (EC) No 713/2009, the Agency became responsible to adopt a decision concerning the selection of the single booking platform at the 'Mallnow' IP and the 'GCP' VIP by the referral of 19 April 2018.

4. SUMMARY OF THE REFERRED CASE

- (13) The concerned NRAs provided the Agency with the relevant documents, including an overview of the process until the date of referral. The case files show that the NRAs had attempted to draft a request for offers from the booking platforms, but they could not agree on the national requirements to be included, nor on the evaluation criteria and how to weigh them.

³ https://www.acer.europa.eu/Official_documents/Public_consultations/Pages/PC_2018_G_03.aspx

5. SUMMARY OF THE OBSERVATIONS RECEIVED BY THE AGENCY

5.1 Hearing with the concerned NRAs and TSOs

- (14) During the hearing of 18 May 2018, the concerned NRAs and TSOs summarised the main issues discussed during the proceedings before the case was referred to the Agency. The Agency concluded that the concerned NRAs had agreed on including EU legal requirements and national requirements in the assessment of the booking platforms. What they disagreed on was which national requirements to include. When it came to the criteria for evaluating the booking platforms, 'Finance', 'Expertise and experience', 'Governance' and 'Security and confidentiality' were the main criteria discussed by the NRAs. The NRAs did however not agree on how to make these criteria operational for an evaluation.
- (15) During the hearing, the Agency concluded that all concerned NRAs and TSOs considered IT security as an important criterion for evaluating the booking platforms.

5.2 Stakeholder consultation and public workshop

- (16) All the concerned NRAs, TSOs and the three booking platforms had representatives at the public workshop conducted by the Agency on 19 June 2018.
- (17) During the workshop all three booking platforms presented their services and the workshop attendees asked questions and provided comments.
- (18) During the workshop, the proposed national requirements were further explained by the concerned NRAs. The Agency presented the criteria to be included in the stakeholder consultation and clarified that the stakeholder consultation aimed at understanding which criteria stakeholders think are important for the evaluation of a booking platform.
- (19) In the consultation document, the Agency asked stakeholders questions on whether they consider the booking platforms to be compliant with the EU and national legal requirements. The Agency also asked stakeholders about the non-legal services and functionalities that may be relevant for a booking platform. The Agency asked stakeholders how important they consider each criterion to be and to evaluate the performance of the booking platforms on these criteria.
- (20) The respondents acknowledged the relevance of the list of EU legal requirements and pointed out a few possible occurrences of incompliance by one or more booking platforms.
- (21) The respondents acknowledged the list of German national requirements and proposed to include also the offering of specific capacity products defined in the German gas law, which the Agency accepted based on the legal justification provided.

- (22) Some respondents disputed that the Polish national requirement of AS4/Edig@s XML applies to booking platforms. Based on a review of the legal documentation provided by the parties, the Agency found that the Polish national requirement refers to communication between the TSO and the network users, but does not explicitly impose the requirement on the booking platform's communication with TSOs. However, in cases where the booking platform acts on behalf of the TSO, it must also comply with the legal requirements of the TSO, in particular when it comes to exchange data with network users. The use of AS4/Edig@s-XML is one of the options set out in Articles 20 and 21 of Commission Regulation (EU) 2015/703 of 30 April 2015 establishing a network code on interoperability and data exchange rules⁴ (IOP NC). The Agency also took into account the provisions concerning the communication processes between the capacity booking platform ('transmission system operators auction system') and network users. Those requirements are set out in Article 5(2) of the CAM NC. The Agency verified that those provisions are followed by the booking platforms⁵. Based on the above considerations, the Agency concluded that the Polish national requirement is already covered by the criteria on 'interoperability and data exchange obligations' as well as by the provisions of the CAM NC, and it was therefore left out of the final assessment.
- (23) The respondents marked the majority of other criteria as relevant and provided an indication of the relative importance of the criteria by giving points to the different criteria. Based on the points given by the respondents, the Agency retained nine criteria, grouped into three main categories of quality criteria that received the highest scores⁶. These were:
- (a) 'security' receiving about 40% of the total points,
 - (b) 'governance' receiving about 30% of the total points, and
 - (c) 'user-friendliness' receiving about 30% of the total points.
- (24) The Agency views the responses received during the public consultation and the discussions in the workshop as two of several pieces of information that support the Agency in the decision-making process. The Agency highlights that it has made its own independent analysis of the booking platforms, giving due consideration to the stakeholder views expressed in the consultation, the public workshop and other information collected through, but not limited to, the hearings of the concerned parties.

⁴ OJ L113, 1.5.2015, p.13.

⁵ Article 24 IOP NC states that ENTSOG shall develop a Common Network Operational Tool (CNOT) specifying the relevant data exchange processes and publish it on its website. The CNOT was published 7 November 2016 and can be found here: https://entsog.eu/public/uploads/files/as4/2018/INT0994-161026%20Common%20Data%20Exchange%20Solution%20Table_final.pdf

⁶ All other criteria received scores of less than 10 points, indicating that these services and functionalities have a lower priority for the platform users, and were therefore discarded for further evaluation.

6. ASSESSMENT OF THE CAPACITY BOOKING PLATFORM TO BE USED AT 'MALLNOW' IP AND 'GCP' VIP

6.1 Legal framework

- (25) As mentioned, according to Article 37(1) of the CAM NC, TSOs shall offer capacity by means of one or a limited number of joint web-based booking platforms. TSOs can operate such platforms themselves or via an agreed party that, where necessary, acts on behalf of them towards the network users.
- (26) According to Article 37(2) of the CAM NC, joint booking platforms shall apply the following rules:
- (a) the rules and procedures for the offer and allocation of all capacity in accordance with Chapter III of the CAM NC shall apply;
 - (b) the establishment of a process to offer firm bundled capacity in accordance with Chapter IV of the CAM NC shall have priority;
 - (c) functionalities for network users to offer and obtain secondary capacity shall be provided;
 - (d) in order to use the services of the booking platforms, network users shall accede to and be compliant with all applicable legal and contractual requirements that enable them to book and use capacity on the relevant TSOs' network under a transport contract;
 - (e) capacity at any single IP or VIP shall be offered at not more than one booking platform, but a TSO may offer capacity at different IPs or VIPs through different booking platforms.
- (27) According to Article 37(5) of the CAM NC, the establishment of one or a limited number of joint booking platforms shall facilitate and simplify capacity booking at IPs across the Union for the benefit of network users. Where appropriate, ENTSOG and the Agency shall facilitate this process.

6.2 Assessment procedure

- (28) Based on the legal framework and the observations received by the Agency, the Agency identified three components that should be assessed when deciding on the booking platform to be used:
- (a) The first component is compliance with EU legal requirements, which derives from Article 37(2)(a), (b), (c) and (e) of the CAM NC,
 - (b) The second component is compliance with national requirements, which derives from Article 37(2)(d) of the CAM NC⁷,

⁷ In the area of Energy, the Union and the Member States have shared competence. The Member States may legislate and adopt legally binding acts, to the extent that the Union has not yet exercised its competence (TFEU Article 2(2) and 4(2)(i)). Because of the shared competence, the Member States may further specify the legal requirements the Union has already adopted. Because of the shared competence, the Agency regards the Member

- (c) The third component is the fulfilment of a number of award criteria, which derives from Article 37(5) of the CAM NC and Recital 1 of Regulation (EC) No 715/2009, which states that the Regulation “aims to [...] achieve efficiency gains, competitive prices and higher standards of service, and to contribute to security of supply and sustainability”. The price and the standard of the services must therefore be part of the total consideration.
- (29) To be able to assess the booking platforms on these criteria, the Agency asked each of the booking platforms to submit a joint offer for capacity booking services at both ‘Mallnow’ IP and ‘GCP’ VIP.
- (30) The Agency chose to select a single booking platform, instead of possible different platforms for the two points, for the following main reasons.
- (a) The wording “*may*” in Article 37(2)(e) of the CAM NC does not prevent a TSO from choosing a different booking platform for each IP, if the TSO considers this appropriate. Due to the incapability of the TSOs and NRAs to reach an agreement on the appropriate booking platform for the points concerned, the discretionary margin given by Article 37(2)(a) of the CAM NC lies now with the Agency,
 - (b) The approach to request a joint offer is compatible with and does not contradict the first part of Article 37(2)(e) of the CAM NC,
 - (c) Selecting two different platforms at one border may create additional problems for the creation of a VIP (Article 3(23) of the CAM NC), which is expected to take place within the 3-year period during which this Decision may be applied.
- (31) The first two components (the EU legal and national requirements) relate to legal obligations which the booking platforms in any event need to comply with. Therefore, the Agency evaluated the offers against the award criteria only for those candidate booking platforms whose offers met the EU legal and national preconditions.
- (32) The EU legal requirements consisted of the following 18 technical capacity booking platform features that should be provided by a booking platform in order for it to fulfil its legal responsibilities:
- (a) Allocation of firm capacity (Article 8 CAM NC)
 - (b) Allocation of interruptible capacity (Article 32 CAM NC)
 - (c) Bundling of capacity products (Articles 19 and 21 CAM NC)
 - (d) Ascending clock auctions (yearly, quarterly, monthly) (Article 17 CAM NC)
 - (e) Uniform price auctions (day-ahead, within-day) (Article 18 CAM NC)
 - (f) Day-ahead bid roll over (Article 15(10) CAM NC)
 - (g) Support of kWh/h and kWh/d as capacity unit (Article 10 CAM NC)
 - (h) Secondary capacity trading (Article 27(2)(c) CAM NC)
 - (i) Automated bidding (Article 17(6) CAM NC)

States national requirements equally as important as the EU legal requirements, and they must therefore be taken into consideration in the assessment of the booking platforms.

- (j) Reporting of platform transactions (bidders and public) (Articles 11(10)-(11), 12(8)-(9), 13(8)-(9), 14(9)-(10), and 15(12)-(13) CAM NC)
 - (k) Bundling of capacity on 1:n situations (Articles 3(14) and 8(2) CAM NC)
 - (l) Offer of competing capacity products (Article 3(14) CAM NC)
 - (m) Allocation of incremental capacity (Article 29 CAM NC)
 - (n) Surrender of capacity (Point 2.2.4 Commission Decision of 24 August 2012 on amending Annex I to Regulation (EC) No 715/2009 of the European Parliament and of the Council on conditions for access to the natural gas transmission networks (CMP Guidelines))
 - (o) Buyback of capacity (Point 2.2.2 CMP Guidelines)
 - (p) REMIT obligations (Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency, in particular Article 15)
 - (q) Interoperability and data exchange obligations (Commission Regulation (EU) 2015/703, Articles 5 and 7 CAM NC, Articles 20, 21 and 23(1) IOP NC)
 - (r) Avoidance of cross-subsidies between network users (Article 13 of Regulation (EC) No 715/2009)
- (33) The national requirements consisted of four legal requirements stemming from the German legislation, as presented by BNetzA:
- (a) Assignment to balancing groups (required by BNetzA decision BK7-14-020 implementing Commission Regulation (EU) No 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks (BAL NC) and the CAM NC)
 - (b) Support for capacity upgrade services (required by German Grid Access Ordinance Gasnetzzugangsverordnung (GasNZV) §13 Abs.2)
 - (c) Anonymity of all trading procedures (required by GasNZV § 12(3)2)
 - (d) Support for individual capacity products (required by GasNZV § 11(1)1, 11(1)2 and 12(3)1)
- (34) As previously mentioned in paragraph (22), one Polish legal requirement was proposed to be included in the national requirements. The Agency concluded that the Polish national requirement is covered by the EU legal requirement (q) 'Interoperability and data exchange obligations' and it was therefore not included as a separate requirement in the final assessment.
- (35) In order to ensure that there would be no competitive advantage of the incumbent booking platform, the national requirements were requested to be fulfilled by the booking platform within three months⁸ from the conclusion of the service contract between the concerned TSOs and the chosen booking platform. The Agency requested that the offers from the booking platforms be binding to the benefit of the concerned TSOs until the conclusion of the service contract between the involved TSOs and the chosen booking platform. The commitments stemming from the offer cannot be

⁸ Three months were deemed an appropriate timeline based on the discussions with the concerned NRAs, TSOs and booking platforms during the public workshop held by the Agency on 19 June 2018 in Ljubljana.

changed unless such a modification of the offer is required jointly by the concerned TSOs.

- (36) The Agency assessed the fulfilment of the national requirements by either concluding that the function already existed on the platform or if the booking platform assured that it will be able to fulfil all the specific obligations indicated in the national requirements within the required time period. The latter needs to be covered by a reporting obligation, in case such a booking platform is selected.
- (37) The award criteria consisted of a financial aspect, on the one hand, and quality criteria, on the other. The financial aspect consisted of the price the booking platforms offered to charge for their services. The quality criteria were based on key aspects that contribute to the facilitation or simplification of capacity booking on the booking platforms, and were developed on the basis of the criteria used in the Baringa study⁹ and the outcome of the stakeholder consultation conducted by the Agency as part of this procedure.
- (38) The Agency requested that the total price for the capacity booking services in the offer cover all the costs that the involved TSOs shall pay to the booking platform for using the services required by the EU legal requirements, the national requirements and any other services available on the platform, in a three-year period. The Agency also requested that the booking platform specify what components the total price consists of (e.g. entrance fees, yearly fees, etc.).
- (39) The financial aspect was allotted 40 percent of the total points. The offers were awarded points following this formula:
- $$\text{Points in price evaluation} = \frac{\text{total price for the lowest offer}}{\text{total price for the offer being evaluated}} * 40$$
- (40) The Agency acknowledges that the booking platforms are organised in different manners. PRISMA is a separate legal entity which is only tasked with the booking platform operation. GSA and RBP are part of the Polish and Hungarian TSOs, respectively. This might have implications for their bidding strategies and the different platforms might have considered different notions of costs in formulating their financial offers.
- (41) This point was raised by stakeholders in the workshop and the public consultation, who stressed the need to have all relevant cost allocated to the booking platforms. However, the Regulation (EC) No 715/2009 and the NC CAM do not set any specific requirement as to how the booking platforms must be organised, nor does they set any requirement in terms of book keeping (e.g. separate records for the booking platform

⁹ The Baringa study was contracted by a consortium of NRAs, with the Agency's involvement, in order to assess the booking platforms and their legal compliance in 2015.

service); therefore the Agency concludes that there is no legal basis to reject an offer based on the cost allocations used for formulating the offer.

- (42) Moreover, the Agency considers that the total price offered by each platform is the most appropriate indicator to be used for the purpose of evaluating the offers from a financial perspective. In fact:
- (a) the total price represents the incremental cost for the involved TSOs to use the booking platforms' services. Booking platform services are not regulated and offered on a competitive market, where the booking platforms can make commercial offers based on the cost drivers they deem relevant; and
 - (b) to the extent that a booking platform is part of a TSO, the other revenues of the latter are typically regulated by the relevant NRA and recognised to the extent that they reflect efficiently incurred costs. This should therefore avoid cross-subsidisation of the booking platform business by the regulated activity performed by the TSO.
- (43) The quality criteria were subdivided into three sub-categories that focused on features of the capacity booking platform services offered by the booking platforms.
- (44) The quality category were allotted 60 percent of the total points. The 'IT security' sub-category was regarded as the most important one, weighted at 24 percent of the total points. The 'governance' and 'user friendliness' sub-categories were each weighted at 18 percent of the total points. The relative weights for the various sub-categories reflect the main outcome of the public consultation conducted by the Agency and the observations received during the hearing with the concerned NRAs and TSOs.
- (45) The Agency aimed at having a well-balanced ratio between price and quality. The Agency concludes that the 40/60 allotment is not disproportionate and reflects the observations the Agency received through the hearings with the concerned NRAs and TSOs and through the consultation with stakeholders. The Agency observes that most stakeholders stressed the importance of quality over price, and therefore it concludes that the used ratio reasonably reflects this.

6.3 Assessment of compliance with EU legal requirements

- (46) The Agency has assessed the compliance of the EU legal requirements for all three booking platforms. The Agency concludes that all booking platforms comply with the EU legal requirements.¹⁰

¹⁰ For requirement (p) REMIT obligations, the compliance verification resorts under the competence of the NRAs and does not fall within scope of the Agency's supervisory authority. Concerning the platforms in question none of the concerned NRAs has yet reported non-compliance with this obligation.

6.4 Assessment of compliance with national requirements

- (47) The Agency has assessed the compliance of the national requirements for all three booking platforms. The Agency concludes that all booking platforms either already comply with the national requirements, or demonstrated that they will be able to comply with them within three months from the conclusion of the service contract with the concerned TSOs.

6.5 Assessment of fulfilment of the award criteria

- (48) The Agency has assessed the price and the fulfilment of the quality criteria for all three booking platforms. The assessment of the quality criteria was done by awarding the booking platforms points depending on how well they fulfilled each criterion.

Price

- (49) The Agency assessed the financial offers of the three booking platforms. GSA submitted an offer for [confidential] EUR, PRISMA submitted an offer for [confidential] EUR and RBP submitted an offer for [confidential] EUR. Based on the offered prices, GSA submitted the most favourable financial offer, PRISMA the second most favourable financial offer and RBP the least favourable financial offer.

Quality criteria

- (50) For the quality criteria, the Agency assessed the three sub-categories: IT security, governance and user-friendliness, as indicated in paragraph (43). For each sub-category, a number of aspects were considered. The performance of each booking platform was assessed against each aspect and, as a result, assigned a score from one to three points (with the performance meeting the highest standards assigned the highest number of points).
- (51) On IT security, four aspects were assessed. On the aspect 'peak service load', the Agency gave GSA [confidential], PRISMA [confidential] and RBP [confidential]. Each booking platform provided sufficient evidence that they meet the required needs and level of scalability.
- (52) On the aspect 'data backup and security', the Agency gave GSA [confidential], PRISMA [confidential] and RBP [confidential]. The Agency concludes that all three platforms' data backup standards are in line with best practices.
- (53) On the aspect 'measures for data security and confidentiality, preservation of data', the Agency gave GSA [confidential], PRISMA [confidential] and RBP [confidential]. The adequacy of the data management practice for all three booking platforms is in line with common energy market standards for similar platforms.
- (54) On the aspect 'secure platform access for network users', the Agency gave GSA [confidential], PRISMA [confidential] and RBP [confidential]. The protocols used are in line with secure protocols commonly used on the gas market.

- (55) The Agency concludes that, although all three platforms provided different forms of evidence and has different structures for IT security, they all have proven that they are safe and secure platforms.
- (56) On governance two aspects were assessed. On the aspect ‘user input in platform development’, the Agency gave GSA [confidential], PRISMA [confidential] and RBP [confidential]. While the platforms are very similar in terms of process, the main difference is that the final decision making at GSA and RBP takes place at TSO level. This means that there is a risk that the interests of, respectively, Gaz-System and FGSZ are put first. Instead, PRISMA’s governance structure ensures that the interest of a single TSO does not prevail.
- (57) On the aspect, ‘continuing development’, the Agency gave GSA [confidential], PRISMA [confidential] and RBP [confidential]. The Agency did not find the evidence provided by GSA to be sufficient for a higher score. GSA does however have a service level agreement with an IT provider in place, but neither that nor the other evidence presented show how or if any future development is planned. PRISMA’s offer includes only a high-level overview, which is not very specific. The evidence provided by RBP in its offer is the most elaborate, including a list of items under development, bug fixes and past milestones.
- (58) On user-friendliness, three aspects were assessed. On the aspect ‘graphical user interface of the platform (in English)’, the Agency gave GSA [confidential], PRISMA [confidential] and RBP [confidential]. All platforms meet the basic needs and provide clear user manuals. The evidence provided by PRISMA and RBP shows that they also provide training and continuous development of the graphical interface on the request of users.
- (59) On the aspect ‘helpdesk availability (outside business hours)’, the Agency gave GSA [confidential], PRISMA [confidential] and RBP [confidential]. The evidence provided by GSA (a print screen of the helpdesk availability on the website) was insufficient to assess the level of helpdesk availability. The call log by RBP shows that phone calls actually took place outside business hours. The evidence provided by PRISMA shows the requirements they set to the helpdesk and that they assess this frequently.
- (60) On the aspect ‘helpdesk availability in English’, the Agency gave GSA [confidential], PRISMA [confidential] and RBP [confidential]. Each booking platform provided evidence that emails with network users were exchanged in English.
- (61) The points awarded to the booking platforms on the price and the quality criteria are summarised in Table 1 below.

Table 1 - Awarded points

		Maximum score	GSA	PRISMA	RBP
Price		[confidential]	[confidential]	[confidential]	[confidential]
Quality	IT security	[confidential]	[confidential]	[confidential]	[confidential]
	Governance	[confidential]	[confidential]	[confidential]	[confidential]
	User-friendliness	[confidential]	[confidential]	[confidential]	[confidential]
Total		100	82	80	70

7. CONCLUSION

- (62) The Agency concludes that all three booking platforms meet the requirements set by the Agency and are competent and qualified to carry out capacity booking services.
- (63) The first component of the assessment - the compliance with EU legal requirements - is met by all three booking platforms.
- (64) The second component of the assessment - the compliance with national requirements - is met by all three booking platforms, with the note that some still need to implement some of the national requirements.
- (65) The third component - the fulfilment of the award criteria - is assessed as summarized in Table 1.
- (66) The Agency points out that on quality all three platforms scored relatively close to each other. This is also supported by the result from the stakeholder consultation, which showed small differences between the three booking platforms on all quality aspects.
- (67) Applying the price evaluation formula as referred to in paragraph (39), and taking into account the relative weighting of the financial and quality criteria, on the basis of the assessment of the offers, the Agency concludes that GSA has the highest score and thus submitted the overall most advantageous offer.

- (68) For the above reasons, the Agency concludes that the booking platform to be used, for a period no longer than three years, at the 'Mallnow' IP and the 'GCP' VIP shall be GSA.
- (69) In order to ensure legal certainty, it is appropriate to grant a reasonable transitory period to the addressees of this Decision which would provide them the necessary time for taking the appropriate actions to comply with this Decision. Whilst the signing of the service contracts between the concerned TSOs and GSA could be envisaged within 3 months from the day of notification of this Decision, it seems reasonable that all further actions needed fully to comply with this Decision, including the connection of back-end IT and the commencement of the services, could be completed within 6 months from the day of notification of this Decision. These timeframes would also ensure that the yearly auctions of 2019 can take place on the chosen booking platform,

HAS ADOPTED THIS DECISION:

Article 1

The booking platform to be used, for a period no longer than three years, at the 'Mallnow' IP and the 'GCP' VIP, in accordance with Article 37(3) of Commission Regulation (EU) 2017/459 and Article 8(1) of Regulation (EC) No 713/2009, shall be GSA.

Article 2

This Decision shall be implemented within a reasonable time period from the day of notification, with the goal to have all the services in place for the 2019 yearly auctions. Each concerned TSO shall immediately inform its respective NRA and the Agency when the service contract with GSA has been signed and at which date the commencement of the services is foreseen, as well as once the commencement of the services has started.

Article 3

This Decision is based on GSA continuing to meet all requirements on the basis of which it has been selected (including the implementation period). In case GSA foresees that it might no longer be able to comply with this Decision, it shall immediately inform the concerned NRAs and the Agency, and provide due justification for the possible non-compliance.

Article 4

When the concerned TSOs have reached a contractual agreement on the use of a booking platform, in accordance with Article 37(4) of Commission Regulation (EU) 2017/459, they shall immediately inform their respective NRA and the Agency.

Article 5

The Agency recommends that, by the end of the implementation period, GSA puts in place a governance structure that ensures that GSA would not act unduly in the interest of Gaz-System if a conflict were to arise between Gaz-System and the other TSO users of the GSA booking platform.

Article 6

This Decision is addressed to Operator Gazociągów Systemowych GAZ-SYSTEM S.A., Gascade Gastransport GmbH and Ontras Gastransport GmbH.

Done at Ljubljana on 16 October 2018.

- SIGNED-

For the Agency
Director ad interim
Alberto POTOTSCHNIG

In accordance with Article 19 of Regulation (EC) No 713/2009, the addressees may appeal against this Decision by filing an appeal, together with the statement of grounds, in writing at the Board of Appeal of the Agency within two months of the day of notification of this Decision.