



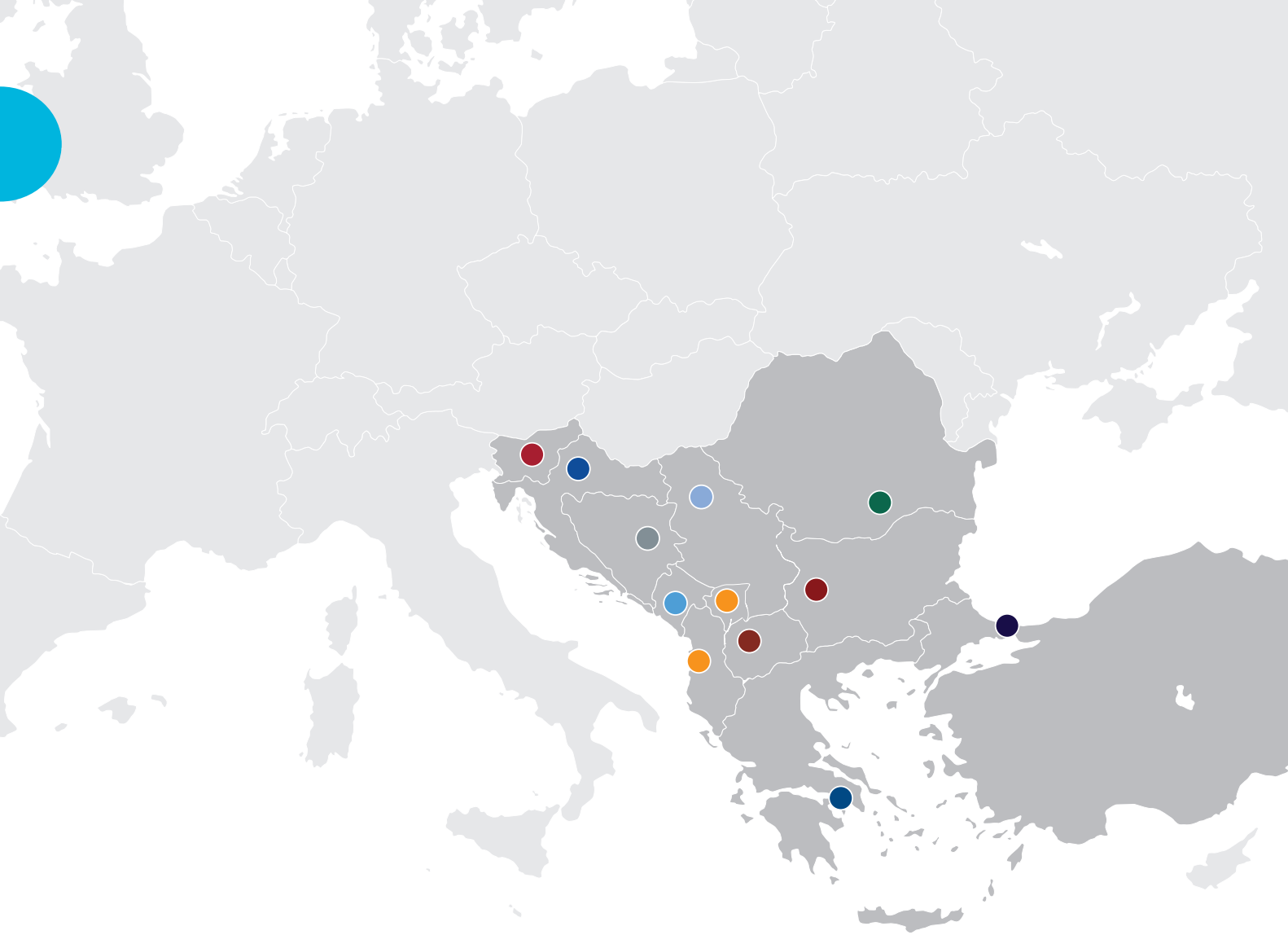
The Southeast Europe Energy Handbook 2015

An abstract graphic design featuring several overlapping, thick, curved bands in shades of orange, yellow, and blue. In the background, there is a faint, dotted map of Southeast Europe. A dark green circle is positioned in the bottom left corner, containing the word 'ROMANIA' in white capital letters.

ROMANIA

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PREFACE

Dear Partners and Friends of SEE Legal,

This is the 3rd edition of the South East Europe Energy Handbook, a product of the Energy-Infrastructure Practice Group functioning within the South East Europe Legal Group ("SEE Legal"). The warm reception of the previous editions in several conferences, road shows and legal events from in-house counsels, industry professionals and energy law practitioners led to the release of the South East Europe Energy Handbook 2015.

Much like the previous editions, we have aimed to highlight the major aspects in the energy sector, such as market structures, licensing, price regulations, access to the grid, etc., and to provide all the legislative updates which took place over the past year in our region.

We are confident that this edition will once again prove to be a helpful desk-book resource when dealing with complex and highly regulated energy related matters in the twelve jurisdictions of South East Europe in which our member firms operate. This handbook is not meant to be a treatise on any particular country's energy legislation and is not exhaustive to the point of eliminating the need of professional advice, but we are confident that it serves its main purpose - to raise readers' attention as to the energy legislation of each jurisdiction covered by SEE Legal and assist in identifying the issues that might influence investment and business development decisions.

Established in 2003, SEE Legal continues as the only regional organization of 10 leading independent national law firms covering twelve jurisdictions of South East Europe with a legal force of more than 450 lawyers and an impressive client base of multinational corporations, financial institutions and governmental bodies. Our duty of care to our clients remains at the highest level and we are proud that our achievements in client service continue to distinguish SEE Legal as the leading group of law firms in South East Europe. Our member firms continue to be instructed to work on major energy – infrastructure related investment transactions and are associated with most of the important and high profile energy deals in our region. All member firms enjoy the highest recognition from their peers and are constantly ranked every year as market champions.

The South East Europe Energy Handbook 2015 is part of the various initiatives undertaken by the Energy-Infrastructure Practice Group to promote our members' capacity and profile in the region in order to continue our strong presence in the legal market and is a statement of our continuing commitment to further assist you in your legal and business matters.

Sincerely,

Gus J. Papamichalopoulos

Head of Energy - Infrastructure Practice Group of SEE Legal



Borislav Boyanov

Co-Chair of SEE Legal



Disclaimer

This publication is intended to provide a general guide to the law and regulation in the individual jurisdictions described and to be used for reference purposes only. The information contained herein is based on the respective legislation as of April 2015. (unless otherwise indicated) and is not intended to be a comprehensive study nor to provide legal advice. Specific legal advice should always be sought before taking any action based on the information provided herein.



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ROMANIA

1. INTRODUCTION TO THE ENERGY MARKET

The Romanian energy market has developed significantly in the past 14 years; a period during which the legislation has been harmonised to a large extent with the EU legal framework. Some of the most important privatisation processes in the energy field have been carried out, more specifically the privatisation of electricity and gas distribution and supply companies, as well as of one of the largest Romanian company acting in the oil sector. The Energy market has been and continues to be one of the most attractive sectors for investors, specifically due to Romania's remarkable potential for energy sources. However, as a rapidly evolving and relatively young energy market (compared to other EU markets) regulations do not always keep pace and may be incomplete or not correlated with the market. The preferred sub-sector in the last years was the electricity market (specifically the renewable field), but due to the reshaping of the renewable energy support schemes and new discoveries of gas resources in the Black Sea at present the oil & gas industry appears to be the new winner.

2. ELECTRICITY

2.1 Market overview

Following its full liberalisation in 2007, arising from European requirements, the Romanian electricity market has been constantly developing and expanding. A new electricity law was passed in 2012, in view of securing the implementation of the third energy legislative package adopted at the European level.

The complete liberalisation of the market has not been achieved yet. However, progress has been made and future legislative changes are envisaged to align the Romanian market to European requirements. The electricity market is still divided into the competitive market and the regulated market. The regulated market includes regulated activities such as transmission,

distribution or system services, as well as regulated supply, which, owing to the liberalization process, is limited now to household consumers and similar. The contractual relationships on the regulated market are based on regulated framework agreements and prices and tariffs determined and approved based on specific procedures approved by ANRE.

As regards electricity trading, it is worth noting that Romania was one of the first European markets to develop an independent platform for energy transactions which currently supports the bilateral contracts market, the day-ahead market, the green certificates market, the emissions certificates market, the intra-day market, the centralized market with continuous double negotiation of bilateral energy contracts (OTC market), the centralized market for the universal service, the electricity market for the final large customers.

The main participants in the electricity market are: electricity generators, electricity suppliers, electricity distributors/distribution networks operators, electricity transporter/transportation network operator, eligible consumers and captive consumers.

2.2 Regulatory overview

The principles of the electricity market are currently regulated by the Electricity and Gas Law No. 123/2012 (published in the Official Gazette No. 485 of 16 July 2012), ("Energy Law") and detailed in secondary legislation including government decisions, decisions and orders issued by the relevant regulatory authority (the National Regulatory Authority for Energy - ANRE).

Other relevant legislation regarding the field of electricity includes: ANRE Order No. 12/2015 on the approval of the Regulation for granting licences and authorisations in the electricity sector (published in the Official Gazette No. 180 of 17 March 2015 and entered into force on 17 March 2015) ("Electricity Licensing Regulation"), ANRE Order No. 59/2013 on the approval of the Regulation for the connection of users to public electricity networks (published in the Official Gazette No. 517 bis of 19 August 2013 and entered into force on 18 December 2013)

("Interconnection Regulation"), as further amended and Law No. 220/2008 regarding the system for promoting production of energy from renewable energy sources (published in the Official Gazette No. 577 of 13 August 2010), as subsequently republished, amended and completed ("Renewables Law").

The Energy Law establishes the general framework for electricity regulated activities, electricity licences and authorisations and the main rights arising therefrom, electricity market principles and the main competencies of the involved authorities (i.e., the relevant ministry – currently, the Ministry of Energy, Small and Medium Companies and of the Business Environment, the Romanian Energy Regulatory Authority – ANRE). According to the Energy Law, carrying out electricity related activities is usually subject to obtaining specific licences or authorisations from ANRE. The Electricity Licensing Regulation details the conditions and procedure to be followed for the granting of the main authorisations and licences. In addition the granting of other authorisations/ licences is contemplated in other secondary legislation.

The Government determines the national energy strategy which defines the objectives of the energy sector and the best ways of achieving such objectives in the medium or long-term.

The Ministry of Energy, Small and Medium Companies and of the Business Environment following the directions set out in the energy strategies and based on the Government programme, determines the energy policy consisting of measures for stimulating investment and research and development activities. The Ministry of Energy, Small and Medium Companies and of the Business Environment also initiates legislative projects in the field, supervises the application of and compliance with the measures regarding environmental protection.

ANRE is the Romanian regulatory authority for energy, acting as an independent body responsible for regulating and ensuring a competitive electricity and gas market environment. ANRE must accomplish the objectives provided under the Government Emergency Ordinance No. 33/2007 regarding the establishment and organization of ANRE, which refer, amongst others, to ensuring sustainable development of the national economy, diversification of the energy resources, establishment and functioning of a competitive energy market, granting non-discriminatory and regulated access to the energy market and to

the public electrical networks to all participants, ensuring transparency with respect to the determination of any tariffs, taxes and prices in the energy sector, environment protection etc.

In its capacity as regulatory authority in the electricity sector ANRE has attributions related to (i) regulatory aspects; (ii) authorisation, supervision and control functions; (iii) reporting and information and (iv) mediation and jurisdiction function. Thus, it elaborates, determines and supervises the implementation of the national mandatory regulations necessary for the efficient functioning of the internal market in the energy sector, on the basis of transparency, effective competition and consumers' protection principles. ANRE acts in close cooperation with the Competition Council, the National Authority for Consumers' Protection, ministries and other relevant public administration organisations, consumer and professional associations, employers' associations and syndicates.

2.3 Regulated electricity market activities

Pursuant to the Energy Law, the implementation of new energy capacities as well as the refurbishment of existing ones is based on establishment authorisations. Furthermore, generation, transportation, providing of system services, distribution and supply, trading of electricity as well as the management activities of the centralised electricity markets are carried out on the basis of licences granted in accordance with the law and in the case of public assets and public services also based on specific concessions granted by the relevant authorities. The performance of any activities without holding proper authorisations/ licences is subject to specific sanctions. ANRE grants the following types of authorisations and licences for electricity related activities:

- (a) Establishment authorisations – must be obtained for erecting new electricity generation capacities, including co-generation capacities, or for the refurbishment thereof, if the installed electricity power of the capacities in question exceeds 1 MW or will exceed 1 MW;
- (b) Licences for: (i) the commercial exploitation of electricity generation capacities and of thermal energy capacities in co-generation; (ii) the performance of the electricity transportation service; (iii) the performance of the system service; (iv) the performance of the electricity distribution service; (v) the performance of centralised markets management activities, (vi) the performance of electricity supply activity and (vii) the performance of the electricity trading activity.

2.4 Material provisions of licensing regulations

The applicable regulations set out the activities performed based on specific licenses and authorisations, as well as the documentation to be prepared and criteria to be met by each applicant/ project for each category of licences and authorisations. The criteria taken into account by the regulatory authority upon the analysis of the file are determined by the activities to be performed and are mainly related to the available technical and organisational, financial and human resources capabilities. Moreover, foreign entities from countries outside the EU are required to have a secondary office in Romania throughout the performance of the licensed/ authorised activity.

In general, changes which might occur with respect to the authorisation/licence holders (e.g., changes of the statute in connection with the change of the legal form, split-off, merger, transformation, change of name, change of headquarter) must be notified to ANRE within 30 days as of their occurrence (with the exception of the merger and de-merger which must be notified with 60 days prior to the date when the merger/de-merger is effective) and ANRE will decide either to annul the existing authorisation/ licence and issue a new authorisation/ licence or to amend the existing license/conditions joining the authorisation/ licence. This procedure related to requesting the consent of ANRE or to notifying ANRE for certain changes to be implemented by the titleholders is further detailed in the case of each specific licence in the conditions attached to the licences issued to each applicant.

Pursuant to the general terms of the standard licences granted for performing activities of supply, the titleholders of such licences have the obligation to notify ANRE of any intention of their shareholders to perform operations which may result in the disposal of the fixed assets necessary for the performance of the relevant activity or which may result in a 25 per cent decrease of the value of the existing share capital of the titleholder.

Additionally, the titleholders of the mentioned licence must notify ANRE of any share transfer operation between the existing shareholders or between the existing shareholders and third parties.

When receiving a notification as mentioned above, ANRE will have to analyse whether following the notified change the titleholder will still be able to perform its obligations under the licence and will communicate to the titleholder its decision.

The possibility to transfer the rights granted under a licence is provided in the case of most of the electricity licences (transportation, distribution, generation, supply). The transfer must be made by means of a contract stipulating the rights and obligations of the parties and is subject to the prior approval of ANRE, under the sanction of annulment. The transferor will remain jointly liable with the transferee in respect of the transferred obligations.

Any operations on the market shall have to be performed in compliance with the unbundling principles, implemented in the Romanian legal framework in accordance with the EU directives. In addition to the regulatory rules briefly mentioned above, merger control and corporate governance rules shall accordingly apply.

2.5 Trading and supply of electricity

Exchanges between operators take place on the electricity market which is divided into the wholesale market and the retail market. According to the provisions of the Energy Law, on the wholesale market, all transactions with electricity must be carried out on the centralized platforms managed by OPCOM in a non-discriminatory and transparent manner. Amongst the platforms managed by OCOM we mention the centralised market for bilateral contracts, the centralised market with continuous negotiation (forward), the day-ahead market, the OTC platform, intra-daily market, the platform for the large final customers, the platform for the universal service, the balancing market.

On the competitive segment of the electricity market, the prices are the result of the interplay between the demand and the offer.

Thus, on the wholesale market, power purchase agreements have to be executed in the centralised electricity markets. This includes the centralised market for bilateral contracts, the centralised market with continuous negotiation (forward), the day-ahead market, OTC platform, intra-daily market, the platform for the large final customers, the platform for the universal service and the balancing market. A market participant cannot enter into negotiated wholesale electricity bilateral agreements outside the organised specific markets with the exception of the OTC market which allows the participants to execute in advance EFET based contracts. Furthermore, market participants wishing to conduct cross-border trading activities may also participate in public auctions for the allocation of available cross-transfer capacity.

From perspective of electricity trading and supply the specific obligations of license suppliers in relation to ensuring the reliability of the transmission grid are also relevant. For this purpose the license holders (i.e. generation, transmission and distribution, supply operators, trading operators) have to be registered on the balancing market, to notify the daily transmissions of electricity, and additionally trade the electricity available after notifying of the daily transmissions transactions. They must also provide financial guarantees to the transmission and system operator for all the imbalances which may occur between the programmed and effectively generated electricity, between projected and actual transactions, etc. The licence holders may choose to delegate the balancing responsibility to another entity.

Apart from the abovementioned markets, during the period of the support scheme for electricity generated in cogeneration units (i.e., 2010 - 2023), operators of cogeneration units (i.e., combined heat and power units) may sell any electricity unsold in the centralised electricity market by regulated agreements at regulated prices. The regulated prices for electricity produced by cogeneration are set by ANRE every year at the level of 90 per cent of the average transaction price of electricity registered for the previous year on the day-ahead market, based on the principles previously mentioned.

In respect of the electricity supply prices and tariffs, please note that although the Romanian electricity market was fully liberalised as of 1 July 2007, the market continues to include regulated segments, such as: the supply to household consumers (regulated until 31 December 2017), final consumers who have not exercised their eligibility right at the entry into force of the Energy Law, non-household consumers with an average number "on paper" of employees lower than 50 and an annual turnover or a total value of the assets from the accounting balance sheet (according to the annual financial reports) below EUR 10 million.

Household consumers and the abovementioned non-household consumers with an average number "on paper" of employees lower than 50 and an annual turnover or a total value of the assets from the accounting balance sheet (according to the annual financial reports) below EUR 10 million are the beneficiaries of an universal electricity supply service having the right to be supplied with electricity at reasonable, transparent, easy comparable and non-discriminatory prices.

The Energy Law regulates the concept of supplier of last resort representing the supplier who provides the universal electricity supply service to the clients mentioned above. Even after the removal of the regulated prices, ANRE will have the right to endorse the prices at which the supplier of last resort intends to sell electricity to the abovementioned clients.

The regulated prices or tariffs must: (i) be non-discriminatory, objective and transparent, based on methodologies approved by ANRE; (ii) cover economically justifiable costs; (iii) allow the consumers who do not exercise their eligibility right to choose the price or tariff they deem most favourable, out of those offered by the supplier, while complying with the conditions set out by ANRE and (iv) ensure a reasonable rate of invested capital-earning capacity, in accordance with ANRE methodologies.

ANRE issued specific methodologies regulating the electricity prices applied for the household consumers and assimilated household consumers and for end consumers who do not exercise their eligibility right.

2.6 Transmission and grid access

Network related services are regulated activities performed at regulated tariffs based on specific licenses and concessions as mentioned above. The network and system operation tariffs continue to be regulated in accordance with methodologies for determining transport and system, and distribution related tariffs and terms as approved by ANRE.

For electricity transmission services ANRE determines the regulated revenue based on price cap methodology (*de tip plafon*), which sets out the value of the revenue required for the performance of the transmission services.

When determining the regulated revenue, ANRE takes into account: a) the performance standard imposed on the transmission system; b) the evolution of the quantity of transported electricity; c) the investment and development plan relating to the grid; d) the regulated rate of rentability; d) the justified costs of the transmission operator (e.g. operation and maintenance costs; costs for the acquisition of the energy for the technological consumption, etc). The tariffs are differentiated based on geographical areas, depending on the impact of the injection or extraction of electricity in/from the nodes of the electricity transmission system.

For the distribution service, ANRE has developed a methodology setting out the electricity distribution service tariffs which regulates the prices and tariffs for distribution services based on the following principles: (i) ANRE determines the regulated revenue for the distribution service based on a tariffs basket cap methodology (cos de tarife plafon); (ii) for the calculation of distribution tariffs any justified cost associated with distribution activity is only considered once; (iii) the calculation of the prices and tariffs takes into account the justified costs of the distribution activity, the expenses related to development and environmental protection, as well as a reasonable profit margin. ANRE may limit tariffs by limiting the level of the prices/tariffs which comprise the basket cap tariff. The tariffs for distribution operators are determined annually.

As regards grid access, the applicable general principle is non-discriminatory access for all electricity market participants to the public transmission/distribution networks, regulated third party access being the right to connect to and use, in accordance with the conditions provided by law, the transmission or distribution networks. The Energy Law sets out the obligation of the transmission/ distribution operators to grant access to the relevant networks. However, applicants are required to cover the specific costs of interconnection and also part of the costs required for the enhancement of the network. Access can be denied only for just cause if the connection affects the safety of the National Power System, through the non-observance of the technical norms and the performance standards or in case the transmission/distribution network operator does not have the required capacities.

Pursuant to the Interconnection Regulation, interconnection to the electricity networks is based on an interconnection permit issued by the transmission/ distribution operator, the payment of the interconnection tariff by the applicant and an interconnection agreement between the applicant and the transmission/ distribution operator. The interconnection permit is a standard one and the interconnection agreement is to be executed based on a standard form issued by ANRE.

The tariffs for interconnection to the public electricity networks are determined based on a methodology approved by ANRE, and they generally have three components: a) a component relating to the costs of the interconnection installation; b) a component relating to the placing under tension of the use installation and c) a component relating to the reinforcement of the grid upstream from the interconnection point.

2.7 General approvals and permits for electricity generation facility project implementation

For the implementation of an electricity generation facility project, the following main categories of permits need to be obtained:

- (a) Permits for the prior construction phase which usually include: urbanism certificates, environmental permits and/or approvals, approval in principle from the local public authority, land planning documentations;
- (b) Permits for the construction phase, usually including: building permits, interconnection permits and establishment authorisations (issued by ANRE);
- (c) Permits for the operation phase which may include: environmental authorisations and other operating permits, the electricity generation licence as well as other relevant electricity licences, such as, for example, the electricity supply licence.

Depending on the actual features of the project, the range of applicable permits may significantly vary. Furthermore, in the case of electricity generation facilities envisaging the use of renewable energy sources for the generation of electricity and/or thermal energy, additional special permits will apply.

2.8 Forthcoming developments

While most of the secondary regulations have been updated so as to be correlated with the Energy Law, there are still some secondary regulations which have not been amended so as to be in line with the Energy Law.

It is also worth mentioning that on 3 March 2015 the Competition Council published the preliminary findings of the sector inquiry conducted between 2008-2013 on the Romanian electricity market, which are accompanied by a set of specific recommendations geared to effectively solve the issues identified and which may lead to further changes in the relevant regulations. From perspective of the relevant recommendations made by the Competition Council in connection to existing regulations we note:

- (a) In the preliminary findings regarding the electricity market, the Competition Council addressed, among others, the potential adverse effects of the restriction provided by the Energy Law, prohibiting the Romanian electricity producers from entering into wholesale transactions outside the centralised markets. As this may amount to a prohibition to export, the Competition Council recommended its removal or as an alternative, the creation of a mechanism aimed at reducing the export barriers and providing better risk management.

- (b) Another finding of the sector inquiry was that the electricity market participants lacked access to financial instruments for risk management, which could prevent the development of the Romanian electricity market. In order to improve this situation, the Competition Council recommended to the competent authorities to assess the financial instruments used in other Member States and to implement the appropriate ones for the Romanian electricity market.
- (c) The Competition Council also expressed its concerns in relation to the manner in which the electricity transmission tariffs were regulated by ANRE, depending on certain geographical criteria. In the absence of arguments that might provide an objective justification for this mechanism, the Competition Council considered that this could result in an unjustified segmentation of the electricity production and trading market, with no benefits for the consumers. The Competition Council thus suggested the analysis of the other electricity transmission tariff models applied within other Member States.

In terms of investments in conventional and nuclear energy, we note mainly the intended construction of Tarnita-Lapustesti Pump-Storage Hydro Power Plant and the intended construction of nuclear power generation units 3 and 4 at Cernavoda Nuclear Power Plant by EnergoNuclear (a project company established for this purpose) as well as refurbishing projects for thermo generation capacities. The mentioned projects are in the inception stages and will be expecting investors in the near future.

3. RENEWABLE ENERGY

3.1 Market overview

Romania benefits from significant potential in various renewable energy sources: wind, solar, hydro, biomass, etc. While in the past years investors have focused mainly on the wind and solar, lately there seems to be a swift towards biomass units or small hydropower plants. In promoting its resources, Romania was quick to adopt supporting mechanisms for all renewable energy sources consisting mainly of a system of mandatory quotas combined with green certificate trading.

However, in the last couple of years, the support scheme has been revised and the additional limitations resulted from such revisions.

3.2 Support schemes

The main support schemes for renewable energy in Romania are:

- (a) Promoting system of green certificates consisting of a system of mandatory quotas combined with green certificates ("GC") trading;
- (b) Financing scheme based on Environmental Fund resources which has been materially reduced at present;
- (c) Support for joint implementation projects through Emission Reduction Units ("ERUs").

GC promoting system

In Romania the main system for promoting electricity generation from renewable energy sources ("E-RES") functions as a staid aid scheme (and for generation units exceeding a certain level as individual state aid which needs the approval of the European Commission) and consists of a system of mandatory quotas combined with GC trading. Based on such system, every year each electricity supplier must purchase a number of GC equal to the mandatory quota provided by the relevant regulations multiplied by the quantity of electricity yearly supplied to end consumers.

The transport system operator issues GC to the relevant generators in consideration of the quantity of E-RES generated and delivered into the network. Under such a system the GC certifies the generation from renewable energy sources of a certain quantity of electricity which may be traded distinctively from the associated electricity in a parallel market) and which represents a benefit for the E-RES generators in exchange for delivering "clean" electricity into the network. The GC are traded on the centralized green certificates market managed by OPCOM.

In the last years the support scheme has been changed in a rather significant manner by suspending for a few years the issuance of a certain number of GC / MWh determined depending on the renewable energy source in the case of projects functioning at 31 December 2013, and by reducing the number of GC/ MWh depending on the renewable energy source for the future projects, as follows:

- (a) suspension of the granting of a certain number of GC in case of each 1 MWh of energy generated from specific renewable energy sources during the period 1 July 2013 - 31 March 2017, as follows: (i) 1 GC is suspended for new hydropower plants with an installed power of no more than 10 MW - thus, only 2 GC will be granted during the mentioned period; (ii) 1 GC is suspended for wind power plants - thus, only 1

GC will be granted during the mentioned period; (iii) 2 GC are suspended for solar power plants - thus, only 4 GC will be granted during the mentioned period.

- (b) decrease of the number of GC granted for each MWh generated/ injected into the network starting with 1 January 2014 (for the capacities accredited after 1 January 2014) resulting in the current granting of (i) 1,5 GC/ MWh for wind based capacities until 2017 and 0.75 GC/ MWh from 2018; (ii) 3 GC/ MWh for solar based capacities and (iii) 2.3 GC for each 1 MWh for small new hydro-power plants of maximum 10 MW;

In addition, the Romanian State has created a state aid scheme for the industrial consumers which under specific conditions may be exempted from the obligation of purchasing GC and it has also decreased the quantity of electricity which may benefit of the support through GC. B

ased on official statements it seems that the intention of the Romanian State is to further limit the support granted to the projects having as object the generation of electricity from renewable energy sources in view of limiting the increase of the electricity bills and reducing the impact of price increases for the industry.

An amendment of the Renewables Law is currently awaited for publication, where the main aspects to be considered under the new piece of legislation are as follows:

- (a) Electricity generators and economic operators who commercially exploit or develop power plants projects with an installed power higher than 125 MW, for which an individual authorization decision has not been issued by the European Commission in 24 months from the accreditation date, for reasons that are not attributable to them, can ask ANRE for a new temporary accreditation decision, in order to benefit from the number of GC provided under the Renewables Law, from the date the new temporary accreditation decision was issued and up to the date of the authorization decision will be issued by the European Commission;
- (b) The economic operator which owns installed capacities between 125 MW and 250 MW and which has not benefitted of the GC promoting system, can receive an accreditation decision from ANRE without the need to obtain an individual authorization decision from the European Commission;

- (c) Electricity generators from renewable sources who benefit from the promoting system, with an installed power of a maximum of 1 MW and a maximum of 2 MW for high efficiency cogeneration based on biomass, can enter into bilateral sale and purchase agreements for electricity and GC directly negotiated only with the suppliers of the final consumers;
- (d) Electricity generators from renewable sources who own power plants with an installed power ranging from 1 MW to 3 MW, respectively, from 2 MW to 3 MW for high efficiency cogeneration based on biomass and are considered to be a small or medium enterprise (SMEs) can enter into directly negotiated bilateral sale and purchase agreement for electricity.

"Rondine" Programme

The Administration of the Environmental Fund acts as the operator of the "RO06 Renewable Energy" - Rondine Programme. This program was established based on the 2012 Memorandum of Understanding entered into by Romania with Norway, Island and Liechtenstein on the implementation of the 2009 - 2014 Financial Mechanism of the European Economic Area. Under this program, an amount of EUR 8,387,406 has been allocated for the development of hydropower and geothermal projects. An additional amount of EUR 4,270,000 may be allocated by the donor States under this program. No financing session has been announced until now for 2015.

4. NATURAL GAS

4.1 Market overview

The Romanian gas market has undergone significant transformation in recent years due to sector reorganisation and restructuring and the development of the regulatory framework as a result of the sector's dynamics and the implementation of the European Union's regulations in the national legislation. The restructuring of the natural gas sector is a consequence of the commitment of the public authorities to adapt to the realities of the natural gas sector, as well as of the collaboration with European structures.

The liberalization of the natural gas market, in accordance with European rules requirements, has as goals the creation of a real

competitive environment allowing consumers the possibility to choose their natural gas supplier and increasing investments in the gas sector. New regulations continue to be implemented in order to achieve the full liberalisation of the natural gas market.

The natural gas market is still divided into the competitive market and the regulated market. On the former, the prices for supply of gas are formed freely, irrespective whether the transactions are wholesale or retail. The regulated market includes regulated activities such as transmission, distribution or storage as well as regulated supply, which, owing to the liberalization process, is limited now to household consumers. The contractual relationships on the regulated market are based on regulated framework agreements and prices and tariffs determined and approved based on specific procedures approved by ANRE.

With respect to the supply of gas to household consumers, the liberalization of prices is a matter of frequent discussions between the Romanian government and the European Commission. The full liberalization of the prices is expected to occur in 2020, judging by the most recent statements of public officials.

The participants in the natural gas market are: natural gas producers (entities possessing an oil agreement and supply licence); natural gas suppliers (entities possessing a supply licence for natural gas); national transmission system operator (the national company Transgaz – entity possessing a transmission licence for natural gas, as well as the concession for natural gas transmission and related public property items); natural gas distributors (entities possessing a licence for natural gas distribution, as well as the concession for natural gas distribution); natural gas underground storage operators (entities possessing a storage licence, as well as a concession agreement for natural gas storage and related assets); clients (wholesale, final, or any other entity purchasing natural gas).

4.2 Regulatory overview

The Energy Law is also the main piece of legislation governing the natural gas sector. In the case of transport and upstream activities the provisions of the Energy Law are complemented by those of the Petroleum Law No. 238/2004, as amended and completed (published in the Official Gazette No. 535/2004) ("**Petroleum Law**"). Further regulations are included in secondary legislation, such as: ANRE Order 34/2013 approving the Regulation for granting of set-up authorizations and licenses in the natural gas

sector (published in the Official Gazette No. 427/2013) ("**Natural Gas Licensing Regulation**"), ANRE Decision No. 1271/2004 approving the Framework conditions for the validity of the natural gas distribution licence, Framework conditions for the validity of the natural gas supply licence and Framework conditions for the validity of the functioning authorisation for the natural gas distribution objectives/ systems, as amended and completed (published in the Official Gazette No. 1165/2004), ANRE Decision No. 1362/2006 approving the Framework conditions for the validity of the natural gas transmission licence (published in the Official Gazette No. 27/2007), ANRE Decision No. 824/2004 approving the regulation relating to the regulated access to the underground storage of natural gas (published in the Official Gazette No. 562/2004) ("**Storage Regulation**"), Government Decision No. 1043/2004 (published in the Official Gazette No. 693/2004) ("**Transmission System Access Regulation**"), ANRE President Order No. 16/2013 approving the Network Code for the natural gas national transmission system (published in the Official Gazette No. 171/2013) ("**Network Code**").

The Energy Law sets out the general framework for carrying out activities specific to the natural gas sector in competitive and transparent conditions. To this end, the Energy Law sets forth the main principles regarding:

- (a) Competences of the relevant authorities for the natural gas sector;
- (b) Concession of transmission, storage and distribution services;
- (c) Authorizations and licenses required for regulated activities;
- (d) Production, transmission, distribution, underground storage and supply of gas as well as the operating of centralized markets;
- (e) Access and connection to the network;
- (f) Liquefied petroleum gas (LPG), compressed natural gas for vehicles (CNG) and liquefied natural gas (LNG);
- (g) Ensuring the quality of equipments, installations, machines, products and procedures used in the natural gas sector;
- (h) New infrastructure;
- (i) Public service obligation;
- (j) Natural gas market;
- (k) Prices and tariffs.

The Government, the Ministry of Economy and other specialised institutions of the central public administration take measures to achieve the objectives included in the energy strategies and

monitor the level of compliance. The Ministry of Economy develops policy in the natural gas field and ensures its compliance.

At present, the regulatory authority in the field of natural gas is ANRE which functions as an autonomous public institution. ANRE develops, applies and monitors compliance with the mandatory regulations at national level necessary for the functioning of the natural gas sector and market in an efficient, safe, competitive, transparent, non-discriminatory manner, protecting the consumers and the environment.

According to the Energy Law, the natural gas related activities are usually performed based on specific licences or authorisations issued by ANRE and in the case of public assets and public services also based on specific concessions granted by relevant authorities. The Natural Gas Licensing Regulation further details the conditions and procedure for granting the main authorisations and licences.

4.3 Regulated natural gas market activities

In order to set up, operate and/or make changes to production, transmission, storage, and distribution capacities of natural gas, and to carry out the supply, transmission, storage, and distribution activities in the natural gas sector, Romanian or foreign entities must possess authorisations and/or licences issued by ANRE based on specific regulations.

Concessions must be awarded by public tender by the relevant authorities in relation to the use of public property assets required for the transmission of natural gas and storage (facilities and systems), and the public services of transmission, storage and distribution of natural gas.

ANRE issues the main types of permits for the natural gas sector:

- (a) Set-up authorisations for new upstream pipelines auxiliary to the production of natural gas, transmission, storage, distribution systems;
- (b) Licences for performing activities such as supply of natural gas, operation of transmission, distribution or storage systems and operating centralized markets.

4.4 Material provisions of the natural gas market law and licensing regulations

Similar to the electricity market, the applicable regulations require that certain documentation is prepared and criteria are met by each applicant/ project for each category of licences and authorisations. In principle, the applicant for a natural gas authorization/ license

must be a legal person with its registered office in Romania. In case the applicant is a foreign legal person without a stable office in Romania, the Natural Gas Licensing Regulation expressly requires the establishment of a secondary office in Romania as a mandatory pre-condition in order for a foreign entity to apply for a natural gas authorization/ license (however, no further provision is made as to whether such secondary office must be a subsidiary, a branch or any other type of secondary office opened in Romania).

ANRE shall analyze the submitted documents in order to assess their conformity with the legal requirements and will notify the applicant, within 30 calendar days from the submission of the request, in case there are any shortcomings. The authority decides on the granting/ refusal of the authorization/license within 30 days from the date of the submission by the applicant of the complete documentation.

The reasons for refusal of granting an authorization/license must be objective and non-discriminatory, the refusal is issued and grounded through a decision of the ANRE President and the applicant may challenge the decision in the administrative disputes court, pursuant to the law.

4.5 Exploration and production

The exploration and production of natural gas are governed by petroleum laws and corresponding regulations, as detailed below.

4.6 Transmission and access to the system

Network related services are regulated activities performed at regulated tariffs based on specific licenses and concessions as mentioned above.

The access to the transmission system is made pursuant to non-discriminatory procedures and criteria of the transmission system operator. Access may be refused only in certain cases, namely if: (i) the capacity of the objective/ system is insufficient (i.e., the capacity of the national transmission system is insufficient); (ii) the access to the system impedes on the fulfilment of the public service obligations and the safety in exploitation; (iii) the access to the system may lead to serious economic and/or financial difficulties related to the "take-or-pay" contracts for the license/ authorization holder to whom access is requested from; (iv) the quality of natural gas which is to be introduced in the systems and/or in the gas storage facilities does not comply with the requirements imposed by the regulations in force and also (v) in case there are no

objectives/ pipes as components of the systems to which the connection is envisaged to be made or in case of failure by the applicant to pay the connection tariff. The transmission system operator cannot refuse the granting of access to the system and has the obligation to finance the necessary works to the extent that the performance of the objectives/necessary pipes for connection is economically justified and confirmed as such by ANRE. In certain cases when the establishment of certain objectives/ pipelines is not economically justified for the system operator, the applicant may contribute in a certain portion to the financing of the relevant objectives/ pipelines.

Secondary legislation regulating the access to the network is yet to be adopted/ amended. The right of receiving access to the transmission system is currently detailed in the Transmission System Access Regulation and the Network Code.

Besides connecting to the transmission system, in order to benefit of transmission services, an interested entity must also reserve a capacity in the entry and exit points of the transmission system. The relevant capacity reservation is done on the basis of the principle "first-come, first-served" among all entities requesting reservation of capacity.

The refusal of capacity reservation may be based on the following grounds: (i) the grounds for refusal of access to the transmission system provided by the Energy Law, as mentioned above; (ii) in case the transmission network user does not meet the legal conditions related to the requested capacity type; (iii) the user does not meet the financial and technical criteria required for the signing of the transmission agreement or (iv) the user has outstanding debts related to the performance of the previous transmission agreements, except for the debts arisen as a result of the fulfilment by the user of its public service obligations.

4.7 Trading and supply

The natural gas market continues to be formed of two segments: the competitive segment and the regulated segment.

The competitive segment of the market is related to the trading of natural gas between suppliers and eligible clients. In the competitive segment prices are formed freely, based on demand and supply and competition mechanisms. The regulated segment of the market consists of natural gas supply to household consumers, natural gas transmission, underground storage and

distribution at regulated prices and is based on regulated framework contracts at regulated tariffs. For this segment of the market, the tariffs and prices systems are set by ANRE based on specific methodologies.

In relation to the regulated segment, until the full liberalisation of the domestic natural gas market and convergence of the price of domestic production with the price of imported natural gas and in order to ensure non-discriminatory access for all consumers to domestic sources of natural gas, the supply of natural gas to consumers will be a "mix basket" consisting of quantities of current/ stored domestic production and imported gas (current/ stored). The "mix basket" shall be determined in such a manner as to ensure full coverage of the consumption demands at national level. The structure of the "mix basket" for non-household customers is proposed monthly by a specialized department of the transmission operator and approved by ANRE. For domestic customers and heat producers, the "mix basket" is set monthly by ANRE.

Import gas price is determined based on an indexation formula on oil prices and certain petroleum products listed on international stock exchanges.

In relation to the competitive sector, centralized markets on which gas is being traded have been established and the authorities are keen to encourage trading on these centralised markets in view of increased liquidity and competition in the gas market. To this aim, the suppliers have an obligation to buy/sale certain minimum amounts of gas on the centralized market, until 31 December 2016. Assuming that, by this date, suppliers will have already become accustomed and willing to buy/sale gas on the centralized market and therefore an obligation to do so will no longer be required.

4.8 Forthcoming developments

Although the Energy Law and subsequent secondary legislation have implemented Directive 2009/73/EC concerning the general rules for the internal market in natural gas and repealing Directive 2003/55/EC, there are still areas in which legislative developments and updates are expected.

Certain steps are also made towards ensuring physical capabilities for export of gas to other countries and in this respect there are several cross-border interconnection projects at various stages of development. As current alternative, entities wishing to export gas

to other countries have the possibility to use the back-haul procedure. Similarly as for the electricity market the Competition Council launched in 2012 a sector inquiry into the natural gas sector, however, as its results are yet to be published, the recommendations that may be made based on this sector inquiry are not available yet.

5. UPSTREAM OIL MARKET

5.1 Market overview

Oil-related activities can be carried out by Romanian or foreign legal entities, in compliance with the conditions provided by the regulatory framework. The oil market is open to all interested participants which are able to prove their financial and technical capabilities for carrying out oil-related activities. The market numbers certain major players, either at global level or regional one, such as ExxonMobil and OMV Petrom SA. The interest in Romania's gas production capabilities has raised recently with the discovery of certain important reserves in the Black Sea.

5.2 Regulatory overview

Unlike the natural gas sector, the Romanian oil market is regulated only to a certain extent. Oil-related upstream activities (e.g., exploration, development, and production) are mainly regulated by the Petroleum Law and the subsequent Methodological Norms for its implementation, approved in Government Decision No. 2075/2004 (published in the Official Gazette No. 1170/2004) ("Methodological Norms"). The main regulations are supported by a variety of secondary legislation.

The Petroleum Law contains the main principles applicable for carrying out oil activities; the principles of the regime of classified information; the main types of oil activities and concessions related thereto (petroleum agreements); and the main rights and obligations arising from the oil concessions together with the situations in which such may be suspended or revoked. The Methodological Norms describe in more detail the public procedure for the granting of oil concessions and the regime of the various types of oil concessions as well as the rights and obligations of the titleholders.

The National Agency for Mineral Resources ("NAMR") is the specialized authority for the oil sector. It is a body of the central

public administration and is legally authorised and functions under the authority of the Government. The main duties of NAMR are: (i) the management of the state oil resources; (ii) negotiation of the terms and conditions of oil agreements and conclusion of such agreements on behalf of the state; (iii) secondary regulations; (iv) receipt, verification and registration of data and information regarding oil resources and reserves, ensuring the storage, systematisation and valorification; (v) monitoring and verification of oil production for the purposes of calculating royalties; (vi) monitoring the application of measures relating to surface and underground protection during the oil operations; (vii) monitoring compliance by the titleholder of the petroleum agreements, the applicable laws and regulations and ordering measures for compliance with such; (viii) approving the abandonment plan and termination of concession based on compliance with the provisions of the environment recovery plan as approved by the competent environmental authorities.

NAMR is responsible for maintaining the Petroleum Book, a registration document comprising all data about the legal regime of the areas: the development and exploitation perimeter; ownership; topographical situation of the works related to the oil activities; the oil and production resources/ reserves; and data regarding the demarcation of oil perimeters and operations in the prospecting and exploration stages.

5.3 Regulated oil market activities

NAMR is responsible for granting concessions for petroleum activities (such as exploration, development, exploitation, storage, transmission, etc.) and public assets related thereto. The concession is awarded by public tender for a term of 30 years with the possibility of extension for another 15 years.

NAMR may also grant prospecting permits which allow the titleholder to undertake exploration activities in a specific concession block for a maximum period of three years. The term of a prospecting permit cannot exceed 3 years.

The concession takes the form of a petroleum agreement concluded between NAMR and the Romanian or foreign legal entity awarded the public tender. The concession enters into force subject to specific governmental approval. The titleholder of the concession pays an oil royalty for the entire duration of the concession. The percentage of the royalty payable by the titleholder of the petroleum agreement is determined in consideration of the type of activity undertaken by

the titleholder (i.e., production, and transmission, underground storage of natural gas). The current oil royalty payable for the performance of oil production activities varies between 3.5 per cent and up to 13.5 per cent, percentage applied to the value of the extracted oil quantities.

The main types of petroleum agreements are:

- (a) Exploration-development-exploitation petroleum agreement;
- (b) Development-exploitation petroleum agreement;
- (c) Exploitation petroleum agreement;
- (d) Development petroleum agreement;
- (e) Underground storage of natural gas petroleum agreement – please note that the performance of the natural gas storage activity requires both an ANRE licence and a NAMR petroleum agreement;
- (f) Petroleum agreement for the concession of the national oil pipeline system;
- (g) Petroleum agreement for the concession of the oil terminals.

The granting of oil petroleum agreements is based on transparent and non-discriminatory criteria. The transportation of oil is performed through main pipelines on a contractual basis in compliance with national and international legal provisions. The transportation agreements may not include unjustifiably restrictive conditions, or conditions endangering the security of supply and the quality of services. The transport of oil through the national transport system is a public national interest service for which Conpet possesses the concession. Conpet has the status of ordinary transport operator under the Petroleum Law and is thus obliged to ensure non-discriminatory treatment for all its clients and perform oil transport on the basis of tariffs regulated by NAMR.

The national oil transportation system is public property of the state and the concession for its use is the subject of a public tender procedure. Nevertheless, within the duration of the concession agreement, any investments made from the concessionaire's own resources and which relate to the operation of the national oil transportation system (such as modernisation and developments of the transportation system) shall be deemed to be assets in the public property of the state.

5.4 Material provisions of the oil market law and licensing regulations

A titleholder of a petroleum agreement may transfer to another legal entity, in full or in part, the rights and obligations acquired on the basis of the petroleum agreement only with the prior

approval of NAMR, under the sanction of nullity of the transfer. The approval of the transfer shall be made provided that the transferee can prove that it has the technical and financial capacity necessary for the performance of the oil activities in compliance with the conditions provided in the petroleum agreement. For the approval of the transfer the following cumulative conditions must be met:

- (a) The petroleum agreement must be in force;
- (b) The Romanian legal entity to which the petroleum agreement shall be transferred (i.e., a Romanian based company or a Romanian based secondary office of a foreign company) has no outstanding debts towards the state budget, social security state budget or other related state budgets;
- (c) The obligations undertaken by the titleholder on the basis of the petroleum agreement have been fulfilled or the transferee undertakes to fulfil also the non-fulfilled obligations;
- (d) The transferee has the legal and technical capacity required for undertaking the obligations under the petroleum agreement;
- (e) The transfer does not affect the conditions of the concession, as established in the petroleum agreement;
- (f) The transferee is specialised for carrying out oil activities or has appointed an authorised firm in the role of operator which possesses the appropriate technical capacity in relation to the oil operations provided in the transferred agreement.

5.5 Forthcoming developments

An important discovery of natural gas resources in the Black Sea has created optimism for both investors and authorities, despite the fact that the size of the reserve is not yet accurately determined as there are still exploration operations being performed. Exploitation of such reserves are expected to commence at the end of the current decade.



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