

Law 123/2012 of electricity and natural gas

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Law 123/2012 of electricity and natural gas

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### Title I: Electrical Energy Chapter

I: General provisions Art. 1: Regulatory field

(1) This Title sets out the regulatory framework for carrying out activities in the electricity and heat produced from cogeneration sectors, with a view to making the best use of primary energy resources and achieving the objectives of energy security, competitiveness and sustainable development under conditions of affordability, availability and price support and in compliance with safety, quality and environmental standards.

(2) Not subject to the provisions of this Title:

- a) mobile generator sets, electrical installations located on vehicles of any kind, except electric traction units consisting of electric locomotives, tram frames and subway frames;
- b) stationary DC electricity sources, if not connected by inverters to the national electricity system, hereinafter referred to as the SEN.

Art. 2: Objectives of activities in the field of electricity and heat produced from cogeneration

Activities in the field of electricity and heat produced from cogeneration shall be carried out in order to achieve the following basic objectives:

- a) ensuring the sustainable development of the national economy;
- b) diversification of the base of primary energy resources;
- c) creating and ensuring the functioning of competitive electricity markets;
- d) ensuring non-discriminatory and regulated access for all participants in the electricity market and to electricity networks of public interest;
- e) transparency of electricity tariffs, prices and charges under a pricing policy aimed at increasing energy efficiency in the electricity generation, transmission, distribution and use cycle;
- f) the establishment of safety stocks for fuels necessary for the production of electricity as well as the heat produced from cogeneration;
- g) ensuring the interlinked operation of the SEN with the electricity systems of neighbouring countries and the electricity systems of the European Network of Transmission Operators and Electricity System – ENTSO-E, hereinafter referred to as ENTSO-E;
- h) improving the competitiveness of the internal electricity market and active participation in the formation of both the European Union's regional and internal energy market and the development of cross-border exchanges;
- i) promoting the use of new and renewable energy sources;
- j) ensuring environmental protection at local and global level, in accordance with the legal regulations

in force;

- k) ensuring security measures to prevent and combat acts of terrorism and sabotage on the SEN infrastructure;
- l) ensuring the functional safety of the SEN;
- m) ensuring safety in the supply of electricity to final customers;
- n) promoting the production of electricity in high-efficiency cogeneration systems associated with heat supplied to cover justified economic consumption.
- o) promoting regional cooperation with a view to enhancing energy security;
- p) respect for consumer rights, in particular: effective and easy switching of supplier, access to clear and comprehensible information, transparency of contractual conditions, effective complaint handling procedures;
- q) ensuring the development of services using decentralised energy resources, such as dispatchable consumption and energy storage.

### Art. 3: Meaning of terms and expressions

For the purposes of this title, the terms and expressions below have the following meanings:

1. access to the public interest electricity grid – the set of rules by which a third party exercises the right to connect and use, under the terms of the law, transmission and distribution grids;
11. *the suitability of the SEN*— the ability of the national power system to continuously meet the power and energy demands of consumers, taking into account the outflows of the system elements, both scheduled and reasonably expected to occur unscheduled;
2. competent authority – National Energy Regulatory Authority, hereinafter referred to as ANRE;
3. guaranteed access to electricity networks – the set of technical and commercial rules and conditions whereby certain categories of producers covered by national support schemes adopted at national level are guaranteed that quantities of electricity that have been contracted on the competitive market or on the basis of purchase obligations established under this Law are guaranteed to be taken into the electricity grid;
4. *Priority access to electricity networks*— the set of technical and commercial rules and conditions by which categories of producers are able to take over the electricity produced at any time, depending on the capacity of the connection to the grid and the availability of eligible units/resources, without jeopardising the safety of the system;
41. *Aggregation* — function performed by a natural or legal person combining the tasks of more than one customer or the electricity produced by several sources for sale, purchase or auctioning on any electricity market;
42. *Independent aggregator* — market participant involved in the aggregation and not related to its client's supplier;
5. damage – the event manifested by dangerous deviations from the functional parameters provided by the technical rules in force;
6. interconnection capacity – an electricity transmission line crossing or crossing the border between two states and connecting the national transmission systems of those States;
7. energy capacity – installations for the production of electricity and/or heat in cogeneration, electricity grids and other electrical equipment;
8. powerplant – the assembly of installations, construction and equipment necessary for the production of electricity; a power plant comprises one or more production units(s);
9. cogeneration power plant (thermal heating) – the assembly of installations, constructions and equipment necessary for the combined production of electricity and heat;
10. customer – wholesale or final electricity client;
11. *gross client* – natural or legal person buying electricity for resale inside or outside the

system under which it is established;

12. Eligible customer – the customer who is free to choose his electricity supplier from whom he purchases electricity within the meaning of Article 33 of Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 on common rules for the internal market in electricity and repealing Directive 2003/54/EC;

13. final customer – any natural or legal person buying electricity for their own consumption; under the law the concepts of “final customer” and “consumer” are equivalent;

14. non-household customer – any natural or legal person buying electricity that is not for their own domestic consumption; this category also includes electricity producers, network operators and wholesale customers;

15. domestic customer – the customer who buys electricity for his own household consumption, excluding consumption for commercial or professional activities;

16. vulnerable client – the final customer belonging to a category of household customers who, for reasons of age, health or low incomes, are at risk of social marginalisation and who, in order to prevent this risk, benefit from social protection measures, including financial measures. Social protection measures, as well as the eligibility criteria for them, are established by normative acts;

17. congestion – situation in which, when programming operation or real-time operation, power circulation between two nodes or system areas leads to failure of safety parameters in the operation of an electricity system;

18. electricity supply contract – the contract under which the electricity supplier provides its customer with a quantity of electricity over a certain period of time but which does not include an instrument derived from electricity;

19. processing contract – contract whereby a quantity of fuel belonging to an economic operator is processed into a manufacturer’s power generation capacity in exchange for a quantity of electricity and a processing charge to the manufacturer; the conclusion of a processing contract is an exceptional situation from the other types of contracts and is carried out under conditions of transparency and non-discriminatory, based on ANRE regulations;

20. control over an economic operator – any rights, contracts or any other elements which, either individually or jointly and taking into account the circumstances of fact or law, confer the possibility of exercising a decisive influence on an economic operator, in particular by:

a) ownership or use rights over the totality or part of the assets of an economic operator;

B) rights or contracts which confer a decisive influence on the structure of the economic operator, voting or decisions of the management bodies of an economic operator;

21. electrical line passageway – the land area along the electric line and the airspace above which restrictions are imposed in terms of the coexistence of the line with natural elements, objects, constructions and related installations; the passageway includes the protection zone and the safety zone;

22. electricity distribution – transmission of electricity through high voltage, medium voltage and low voltage distribution networks with rated line voltage up to and including 110 kV for delivery to customers, not including supply;

23. balance between production and consumption – coverage of foreseeable electricity demand, without the need to reduce consumption;

24. commercial exploitation of an energy capacity – all activities carried out by an economic operator in the electricity sector under a licence granted under the terms of this law;

25. electricity supply – the activity of selling electricity to customers, as well as the supply of electricity to the places of consumption owned by the supplier;

26. supplier – natural and/or legal person carrying out the energy supply activity;

27. supplier of last resort – supplier designated by the competent authority to provide the

universal supply service under specific regulated conditions;

28. guarantee of origin – electronic document issued by the competent authority to electricity producers, which has the sole function of providing a final customer proof that a given share or quantity of energy was produced from renewable sources or high-efficiency cogeneration;

29. measurement group – the meter assembly and the measuring transformers related thereto, as well as all intermediate elements constituting the electrical energy measurement circuits, including security elements;

30. commercially sensitive information – information the disclosure of which could restrict, impede or distort competition on the electricity market and/or lead to injury to market participants;

31. interconnection – the set of installations and equipment through which the connection of the power systems is carried out;

311. <sup>energy</sup>storage installation – in the electricity system, an installation in which energy storage takes place;

312. technological<sup>electrical</sup> installation – electrical installation which is part of an energy capacity other than the electrical installation/electric network related to a construction in or on which the energy capacity is located;

32. Financial instrument derived from electricity – one of the financial instruments referred to in Art. 2 par. (1) item 11 lett. d), g) and h) of Law no. 297/2004 on the capital market, with subsequent amendments and additions, combinations thereof, as well as other instruments thus qualified through regulations of the National Securities Commission, hereinafter referred to as CNVM;

33. direct electricity line – the electrical line connecting an energy production capacity isolated from an isolated customer or the electrical line connecting a manufacturer and an electricity supplier, for the purpose of directly supplying their premises, subsidiaries or their eligible customers;

34. energy efficiency and demand-side management – a global or integrated approach aimed at influencing the volume and programming of electricity consumption to reduce primary energy consumption and load peaks by prioritising energy efficiency investments, interruptible electricity supply contracts, new investments to increase generation capacity, whether these are the most efficient and economical options, given the positive environmental impact of energy saving, on the security of electricity supply and on their distribution costs;

35. congestion management – all activities, programmes and actions undertaken by the transmission system operator to eliminate congestion occurring in the programming of the operation or the real-time operation of the SEN; in order to eliminate congestion on interconnection lines through the implicit allocation of capacity, the transmission system operator shall cooperate with the electricity market operator;

36. *Relevant Ministry* — Ministry of Economy, Energy and Business Environment;

37. natural electricity monopoly – the market situation in which the transmission service and the electricity distribution service each provide by a single economic operator for users in a demarcated territory;

38. electricity market operator – the legal entity that ensures the organisation and management of centralised markets, with the exception of the balancing market, for short, medium and long-term wholesale electricity trading;

39. distribution operator – any natural or legal person holding, under any title, an electrical distribution network responsible for the operation, maintenance and, where necessary, development of the distribution network in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term capacity of the network to

meet a reasonable level of demand for electricity distribution;

40. transmission system operator – any legal person holding, under any title, an electrical transmission network responsible for operating, maintaining and, if necessary, developing the transmission network in a given area and, where applicable, its interconnection with other electricity systems, and for ensuring the long-term capacity of the transmission network to cover reasonable demands for the transmission of electricity; 41. Affiliated economic operator – any other economic operator which, directly or indirectly, controls the specified economic operator, is controlled by it or is under joint control, together with this economic operator;

42. Economic operator in the field of electricity-any natural or legal person performing at least one of the following activities: production, transmission, distribution, supply or purchase of electricity and which has commercial, technical and/or maintenance tasks related to these activities, but does not include final customers;

43. horizontally integrated economic operator – the economic operator performing at least one of the following activities: production for the purposes of sale, transmission, distribution or supply of electricity and other non-electricity activity;

44. vertically integrated economic operator – an economic operator or a group of economic operators in the field of electricity in which the same person or persons is/are entitled, directly or indirectly, to exercise control, and this economic operator or group of operators carries out at least one of the transmission or distribution activities and at least one of the electricity generation or supply activities;

45. economic priority order – ranking of electricity supply sources according to economic criteria;

46. party responsible for balancing licence holders who assume financial responsibility for imbalances between the values notified and the measured values of electricity;

47. wholesale electricity market – the organised trading framework for electricity and associated services involving electricity producers, transmission system operator, distribution operators, electricity market operator and wholesale customers;

48. *The electricity market*— the framework in which electricity is traded and associated services;

49. *Centralised electricity market*— organised framework for conducting electricity transactions between different economic operators, brokered by the electricity market operator or transmission system operator, on the basis of specific rules, approved by the competent authority; in this Title, the concepts of a centralised electricity market and an organised electricity market are equivalent;

50. retail electricity market – the organised framework in which electricity is purchased by final customers in order to satisfy their own consumption from suppliers or producers;

51. balancing market – the centralised electricity market, organised and managed by the transmission system operator, for conducting transactions in electricity between it on the one hand, and electricity producers operating dispatchable production units, i.e. dispatchable final customers, on the other hand, in order to ensure a real-time balance between production and consumption;

52. intra-day electricity market – the centralised electricity market, organised and managed by the electricity market operator, which offers market participants the opportunity to improve the balance of their portfolio for a day of delivery through transactions carried out in sessions after the conclusion of the market transactions for the following day and before a certain time to start delivery;

53. day-ahead market (PZU) – the centralised electricity market, organised and managed by the electricity market operator for the sale and purchase of electricity on the day of delivery immediately after the trading day;

54. centralised market for bilateral contracts – the organised framework for conducting

transparently through public tender transactions in physical electricity supply contracts, on the basis of specific rules approved by the competent authority;

55. the market for international interconnection capacity allocation – the centralised SEN interconnection capacity allocation market, organised and managed by the transmission system operator on the basis of specific rules, for the purpose of import/export and transit transactions of electricity;

56. SEN defence plan against major disturbances – the document containing technical and organizational measures, with the aim of preventing the expansion of disturbances in the system and limiting their consequences;

57. development plan – the long-term planning document of the investment needs in production, transmission and distribution capacities, in order to cover the electricity demand of the system and to ensure deliveries to customers under the applicable legislation;

571.<sup>complaint</sup> —complaint, complaint, petition, divergence, misunderstanding, dispute addressed to ANRE, in the field of electricity and/or in the field of heat produced in cogeneration, formulated by a natural or legal person, respectively to the Ministry of Economy, Energy and Business Environment for energy efficiency;

58. tendering procedure – the procedure whereby additional consumption requirements, as well as planned production capacities to be replaced, are covered by the realisation of new electricity generation capacities or by refurbishment of existing ones;

59. electricity producer – natural or legal person having as specific activity the production of electricity, including cogeneration;

60. distributed production – power generation plants connected to the distribution network;

61. rehabilitation – all operations carried out on energy equipment and/or installations which, without changing the initial technology, restore their technical and efficiency status to a level close to the one they had at the beginning of their lifetime;

62. refurbishment – all operations to replace existing, morally and/or physically used technologies with moderne technologies in order to increase activity efficiency, reduce specific energy consumption, reduce pollutant emissions, etc.;

63. electrical network – the assembly of lines, including their supporting and protective elements, electrical stations and other electrical equipment connected with each other by which electricity is transmitted from an energy capacity to a user; the power grid may be a transmission network or distribution network;

64. electrical distribution network – power grid with rated line voltage up to and including 110 kV;

65. public interest electricity network – electricity grid to which at least 2 users are connected;

66. electric transmission network – electricity network of national and strategic interest with rated line voltage greater than 110 kv;

67. electricity sector – all activities of electricity generation, including heat and electricity generation in cogeneration, transmission, distribution and supply of electricity, supply of system services, import and export of electricity, natural exchange and/or damage with neighbouring countries' power systems, and related installations;

68. distribution service – the service provided by the distribution operator to ensure the efficient and safe transmission of electricity between two or more points of the distribution network, in compliance with the performance standards in force;

69. system service – the service provided by the transmission system operator to maintain the level of operational safety of the power system, as well as the quality of electricity, in accordance with the regulations in force;

691.<sup>public</sup> service – the activity of general interest in the field of electricity, authorised and

monitored by a public authority;

70. system service – the service provided by dispatchable manufacturers or final customers at the request of the transmission system operator to maintain the level of safety in operation of the SEN, as well as the quality of the electricity transported to the parameters laid down by the rules in force;

71. transmission service – the service provided by the transmission system operator consisting of ensuring the efficient and safe transmission of electricity between two or more points of the transmission network, in compliance with the performance standards in force;

72. universal service – the electricity supply service guaranteed to household and non-household customers with a number of employees of less than 50 and an annual turnover or a total value of assets on the balance sheet according to annual tax reports not exceeding EUR 10 million, at a level of quality and at reasonable, transparent, easily comparable and non-discriminatory prices;

73. security of electricity supply – ensuring the technical capacity of the national energy system to supply electricity to the users of this system, in compliance with the legislation in force;

731. *the safety of the<sup>SEN</sup> – ensuring continuity in the supply by the transmission system operator of a combined production and technological system services, so that the exit of any energy capacity can be replaced without disconnecting consumers from the network;*

74. network safety – continuous operation of the transmission network and, where appropriate, distribution network, in foreseeable circumstances;

75. electricity system – all interconnected electricity installations for the production, transport, operational management, distribution, supply and use of electricity;

76. insulated power system – the local system of production, distribution, supply and use of electricity under the conditions stipulated by law, which is not interconnected with the SEN;

77. national PowerSystem (SEN) – the electricity system located in the national territory; The SEM is the basic infrastructure shared by electricity market participants;

78. interconnected system – transmission and distribution systems linked to each other by means of one or more interconnections;

79. performance standard for electricity transmission/distribution/supply services – regulation issued by the competent authority to establish performance indicators in the provision of electricity transmission/distribution/supply service;

791. electricity Trader – natural or legal person who buys and sells electricity exclusively on the wholesale electricity or import/export market.

792. *Energy storage – the process of transforming electricity into a form of energy that can be stored for the purpose of delaying its use for a moment after the generation and subsequent conversion of that energy into electricity or its use in another energy vector;*

80. electricity transmission – transmission of electricity via the interconnected electricity transmission network for the purpose of transmitting electricity to final customers or distributors, but not including supply;

81. electrical network user – any natural or legal person whose installations are connected to an electricity system for the purpose of supplying electricity to or from the transmission system or electricity distribution system;

82. protection zone – the area adjacent to the energy capacity, extended in space, where prohibitions on people's access and construction regime are introduced;

83. safety zone – the area adjacent to energy capacities, extended in space, where restrictions and prohibitions are put in place in order to ensure normal functioning and to avoid endangering persons, goods and the environment; the safety zone shall include the protection zone.

## Energy strategy and policy

(1) The national energy strategy defines the medium and long-term objectives of the electricity sector and the most efficient ways to achieve them, while ensuring the sustainable development of the national economy and meeting the energy needs and a civilised standard of living, under quality conditions, both at present and in the medium and long term, at an affordable price.

The energy strategy is developed by the relevant ministry in consultation with representatives of the energy industry, non-governmental organisations, social partners and business representatives, is promoted by draft law by Government and approved by the Parliament. The energy strategy shall be reviewed periodically at the initiative of the relevant ministry, without prejudice to the stability and predictability specific to such a document and the revised form to be approved under the terms of the law.

(2) The energy policy, following the directions set out in the energy strategy, is implemented by the relevant ministry, on the basis of the Governance Programme, for a medium time period and taking into account probable long-term developments, in consultation with economic operators in the field of electricity, non-governmental organisations, social partners and business representatives, taking into account mainly:

- a) setting up the appropriate institutional framework by defining the bodies and authorities responsible for carrying out this policy;
- b) provide the necessary legal framework for the safe and stable functioning of the SEN;
- c) ensuring security in the supply of fuel and electricity and safety in the functioning of the SEN;
- d) ensuring environmental protection, environmental reconstruction of sites affected by energy activities;
- e) transparency of fuel and energy prices and tariffs;
- f) increasing energy efficiency;
- g) promoting renewable energy from unconventional sources, high-efficiency cogeneration and energy storage, giving priority to electricity supply to isolated settlements;
- h) developing international cooperation in the field of energy, participation in regional markets and the European electricity market, with a view to achieving the single energy market at European Union level and ensuring the safe and secure functioning of the SEN.

(3) The sources of financing used for the implementation of the national energy strategy and of the Government's energy policy are provided from the own sources of economic operators in the field, state budgets, local budgets, repayable and non-refundable loans, including subsidy schemes/mechanisms, contracting, state aid, structural funds and financing programmes/schemes provided at European Union level.

(4) The relevant Ministry will benefit periodically from the state budget of the amounts needed to update the energy strategy, as well as for the development of studies, analyses, evaluations, monitoring necessary for the performance of its own tasks, in order to elaborate the legislation related to the national energy strategy and the Government's policy in the energy sector and its impact assessment.

(5) The measures to support the nature of state aid, proposed to ensure the implementation of the national energy strategy and the Government's policy in the electricity sector, as well as those provided by this law will be approved and granted only under the law.

(6) For the elaboration and implementation of state aid legislation, assessment of the impact of granting them and carrying out the process of obtaining the agreement of the European Commission, in accordance with national and European legislation, the relevant ministry will have the financing from the state budget to purchase consultancy services, in compliance with the legislation in force.

(7) Energy policy is materialised in a program containing measures to stimulate investment activities, R & D, sustainable development, efficient use of energy resources, energy efficiency and other activities in order to ensure the safety and security of the NES functioning, approved by Government



decision, with the obligation to comply with the annual programmes.

(8) The Government, the competent ministry, the other ministries with direct responsibilities for the energy field, ANRE, the specialised bodies of central and local public administration shall take steps to achieve the objectives listed in the programme referred to in paragraph 7 and shall examine, annually or whenever necessary, the state of fulfilment of its provisions.

Art. 5: It's energy security. Safeguard measures

(1) By Government decision, for reasons related to the security of electricity supply, guaranteed access to electricity grids for electricity produced in power plants using fuel from domestic production can be granted, but only for annual quantities corresponding to a primary energy of not more than 15 % of the total quantity of equivalent fuel required to produce the electricity related to the country's gross final consumption.

(2) The Government's decision establishes, in collaboration with other institutions and authorities of the state competent in the field, binding measures for all economic operators in the electricity sector, regardless of the form of ownership, in order to maintain the continuous production and supply of energy during the cold season, as well as any other measures regarding the level of safety and security in operation of the SEN.

(3) In order to ensure safety in the functioning of the SEN, on the basis of suitability assessments carried out by the transmission system operator, competent authorities may take the necessary measures to develop and implement mechanisms to ensure energy capacity to achieve the desired level of suitability, including the conclusion by electricity producers of contracts for fuel processing, in compliance with and in accordance with the specific provisions of the European and national regulations in force.

(4) In case of unexpected crisis situations on the energy market and in case the physical safety or security of persons, appliances or installations or system integrity is threatened, the transmission system operator shall propose to ANRE and the relevant ministry the adoption of safety measures.

(5) The safety measures referred to in paragraph 4 shall affect as little as possible the proper functioning of the European internal market and be strictly limited to remedying the crisis situation which has caused them.

(6) The implementation of the safety measures referred to in par. (4) shall be made by Government Decision initiated by the relevant Ministry.

(7) The relevant Ministry shall, as a matter of urgency, notify the other Member States of the European Union and the European Commission of the safety measures adopted in each case.

Art. 6: Tasks of the relevant ministry

The relevant Ministry elaborates the national energy strategy and energy policy and implements their provisions, under the conditions of this law, having the following main tasks:

- a) establish the appropriate institutional framework for efficient and competitive conduct of the activity of economic operators operating in the field of electricity;
- b) In establishing the energy strategy and policies, with a view to ensuring security and safety in the functioning of the SEN, cooperate with transmission system operators and coordinate specific activities solely for that purpose and for the application of Regulation (EU) 2019/941 of the European Parliament and of the Council of 5 June 2019 on risk preparedness in the electricity sector and repealing Directive 2005/89/EC and creating a competitive internal market in accordance with Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market in electricity (recast);
- c) develop programmes and action plans and measures for the implementation of government policy in the electricity sector, including decarbonation, energy storage, energy efficiency and renewable energy promotion programmes, in line with national and European programmes on the National Integrated Energy and Climate Change Plan 2021-2030, Green Deal and Next

Generation, as well as other relevant European documents;

d) develop, in collaboration with ANRE, the Ministry of Environment, Waters and Forests and the Ministry of Public Finance, the mechanisms, as well as the primary and secondary legal framework for making investments through contracts for the difference, which include:

- the legislative framework for the complementary implementation and regulation of the support scheme;
- the operating framework, the application scheme and the pricing methodology;
- nominating the entities designated for the management of the financing scheme and the application scheme, their scope of competence and responsibility;
- the method of financing, the State aid support mechanism and the procurement arrangements without a tender to support single projects;
- the Capacity Allocation Regulation;
- the process of standard allocation and requirements for the eligibility of economic operators for participation, conditions for award and conclusion of contracts;
- the framework contract for the mechanism of contracts for the difference;

e) develop draft normative acts for the electricity sector;

f) ensure the development of studies on the basis of which priorities for investments of strategic interest in the electricity sector are to be established;

g) ensures the elaboration of studies, analyses and evaluations necessary to carry out their duties, with funding provided from the state budget or other sources attracted, in order to develop and implement the national energy strategy, the Government's energy policy and the assessment of the impact of implementation in accordance with national and European legislation;

h) has the status of contracting authority on concessions in the electricity sector, with the exception of the activity of transmission of electricity which is carried out by the Ministry of Public Finance, under the conditions of this Law;

i) analyse and monitor, on the basis of information received from economic operators and consumers, including ministries, authorities and state institutions, the application and compliance with the measures established for the protection of the environment;

j) develop, in collaboration with ANRE, legislation to promote the production of electricity from renewable sources, unconventional sources and high-efficiency cogeneration, as well as technologies on the use of hydrogen, promoting energy storage and electromobility;

k) coordinate cooperation actions with similar institutions in other countries as well as with relevant international bodies;

l) ensure that the commitments under the Treaty of Accession to the European Union for the energy sector are complied with and coordinate the transposition and implementation of these commitments by the institutions involved;

m) define, identify and propose the designation of the critical infrastructure of the SEN. Is the competent authority on security of energy supply for the application of Regulation (EU) 2019/941 of the European Parliament and of the Council of 5 June 2019 on risk preparation in the electricity sector and repealing Directive 2005/89/EC;

n) analyse and monitor, on the basis of information received from economic operators in the energy sector subordinated or coordinated by the Ministry, the implementation of the measures taken to comply with the energy sector installations, which have obtained the transitional period following negotiations with the European Union, to the rules laid down in environmental legislation;

o) pursues and proposes, together with other institutions and authorities of the relevant state, binding measures for all economic operators in the electricity sector, regardless of the form of ownership, in relation to energy storage and the realisation of SEN safety stocks in relation to fuels for the cold season and the volume of water in storage lakes, as well as any other measures regarding the level of safety and safety in operation of the SEN, with a view to approval by Government decision;

- p) Promote and facilitate cooperation, together with ANRE, between the electricity market operator, transmission system operators and their counterparts at regional level, including on cross-border issues, with a view to creating a competitive internal electricity market in accordance with Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal electricity market (recast);
- q) collaborates with the relevant ministry in the field of social protection, which is responsible for implementing the national action plan to reduce the number of cases of energy poverty and define vulnerable consumers;
- r) supports R & D and innovation programmes in the field;
- s) together with the transmission system operator cooperates with the relevant Ministry in the field of water, as well as with other institutions and authorities of the competent state, in order to maintain the water supply associated with multiple uses;
- t) develops the program of energy storage and construction of fuel safety stocks and aims to achieve its provisions by economic operators;
- u) continuously pursue, through the relevant institutions and authorities, the performance and quality of energy system technologies and installations and initiate measures to increase their level;
- v) take steps to develop electricity generation facilities that enable lower fuels from domestic resources to be used under economic efficiency, as well as to harness pre-determined amounts of renewable and secondary energy resources;
- w) monitors and assesses the adequacy of resources on Romanian territory, develops programmes on the diversification of primary energy sources, especially for the use of energy from renewable sources, unconventional sources, biomass, hydrogen, proposing measures to the Government;
- x) implements the Government's energy policy, regarding the continued promotion of high-efficiency cogeneration as an efficient solution to cover national heat consumption, and to use renewable energy sources, non-conventional sources, biomass and hydrogen;
- y) Decide in cooperation with the transmission system operator on the decision to address structural congestion in accordance with the provisions of Article 14(7) of Regulation (EU) 2019/943;
- z) Draw up the action plan, in cooperation with ANRE, in accordance with the provisions of Article 15(1) of Regulation (EU) 2019/943.

#### Art. 7:Regulatory authority

- (1) ANRE is organised and functions as an autonomous administrative authority with legal personality.
- (2) The organisation, functioning, competencies and tasks of ANRE are established according to the law.

#### Art. 71:Compliance and relationships

- (1) ANRE shall monitor the implementation of the rules on the roles and responsibilities of transmission system operators, distribution operators, suppliers, customers and other market participants in accordance with Regulation (EC) No 714/2009.
- (2) ANRE shall resolve complaints against the transmission system operator and distribution operators regarding their obligations under this Law, by issuing a decision within 60 days from the date of registration of the complaint, with the possibility of extending for another 60 days if the authority needs additional data. That extended period may continue to be extended by a maximum of 60 days, with the agreement of the complainant. The initiation of the complaint settlement process by ANRE is without prejudice to the right of applicants to appeal to the courts in order to resolve the same complaints. Disputes between the transmission system operator and the transmission network owner shall be subject to the same procedure.
- (3) For the handling of complaints referred to in paragraph 2 the alternative resolution procedure shall also be permitted as provided for in Directive 2013/11/EU of the European Parliament and of the

Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR).

(4) The cooperation and exchange of information between ANRE and the Agency for the Cooperation of Energy Regulators, hereinafter referred to as ACER, respectively between ANRE and the other regulatory authorities within the European Union shall be carried out in compliance with the same level of confidentiality of information as that imposed on the issuing authority.

(5) ANRE has an obligation to implement the rules on the roles and responsibilities of transmission system operators, distribution operators, suppliers, customers and other market participants in accordance with Regulation (EC) No 714/2009.

(6) ANRE may request the opinion of ACER on the conformity of a decision taken by a regulatory authority with the guidelines referred to in Directive 2009/72/EC or Regulation (EC) No 714/2009.

(7) ANRE may inform the European Commission if it considers that a decision relevant to cross-border trade by another regulatory authority does not comply with the guidelines issued by the European Commission or with the provisions of Regulation (EC) No 714/2009, within 60 days of the date of that decision, if there is sufficient information on such a situation.

(8) ANRE shall comply, within 60 days, with a decision of the European Commission requiring the withdrawal/revocation of a decision of ANRE and shall inform the European Commission accordingly.

(9) In the activity of monitoring the electricity market, ANRE shall publish on its website quarterly reports on its functioning.

(10) ANRE ensures the increase of information and awareness of the rights of final customers of electricity in relation to economic operators participating in the electricity market and shall take all necessary measures to provide them with practical information.

Art. 72: Handling of complaints

(1) Complaints submitted to ANRE shall be resolved in accordance with the provisions of this Title and ANRE regulations/procedures, by derogation from the provisions of Government Ordinance no. 27/2002 on the settlement of petitions, approved with amendments and supplements by Law no. 233/2002, as amended.

(2) Before submitting a complaint to ANRE, if it concerns the activity of a service provider/activity provider, the complainant must in advance address the service provider/activity whose service provider is dissatisfied.

(3) Complaints whose object exceeds 36 months from the date of the commission shall not be dealt with.

(4) Complaints deducted for settlement by courts or legal entities by out-of-court can no longer be addressed to ANRE for settlement.

(5) During the settlement of complaints by ANRE, the effects of the actions of the holders of licenses/authorisations/attestations in the field of energy against complainants may be suspended by ANRE, except for those which would result in irreparable damage by non-application.

## Chapter **ni**: Authorisations, licenses and

concessions SECTION 1: Authorisations and licenses Art. 8: Activities

subject to authorisation regime

(1) The development of new energy capacities, as well as the refurbishment of existing ones, is carried out on the basis of start-up authorisations, granted in compliance with the legal provisions in force.

(2) The production, transmission, system service, distribution and supply of electricity as well as the management activities of centralised electricity markets shall be carried out on the basis of licences granted under the terms of this Law.

(3) The exercise of any activity without authorisation or license shall be sanctioned according to this

Law.

#### Art. 9: Authorisation regime

- (1) For authorisation, the applicant shall register the application with the competent authority.
- (2) The applicant shall attach, upon request, the documents and documents proving that the applicant fulfils the economic, financial, technical and professional conditions established by categories of energy capacities and activities in the field.
- (3) Applicants who have as controlling shareholders or as administrators who have previously been a controlling shareholder or manager within licensed economic operators who have failed to discharge their payment obligations arising from transactions carried out on the electricity market may not be authorised.
- (4) The procedure for granting, amending, suspending and withdrawing authorisations and licences, time limits and conditions for granting, consisting of: criteria, power limits, attestations, opinions, guarantees and the like, differentiated by categories of capacities and activities subject to authorisation, shall be established by regulation approved by order of the President of ANRE.
- (5) The refusal to grant an authorisation or license, the lack of response within the time limit and any other solution of the competent authority, considered by the applicant unlawful and prejudicial, may be appealed to the Bucharest Court of Appeal, the Administrative Division, according to the law.
- (6) For distributed generation capacities and/or for small producers of electricity, the criteria for authorisation will take into account the limited size of generation capacities and the impact on the operation of the distribution grids.
- (7) In determining the conditions for the granting of licences and authorisations for new production capacities, the following elements shall be taken into account:
  - a) the safety and security of electrical systems, associated installations and equipment;
  - b) protection of public health and safety;
  - c) environmental protection;
  - d) land occupation and choice of sites;
  - e) use of the public domain;
  - f) energy efficiency;
  - g) the nature of the primary sources;
  - h) specific characteristics of the applicant, such as: technical, economic and financial capacities;
  - i) compliance with measures taken in relation to public service obligations and consumer protection;
  - j) Contributing to capacity building to achieve the overall European objective, according to which renewable energy shall represent 20 % of the European Union's gross final energy consumption in 2020, the national target of Romania being 24 %, according to Article 5(1) of Law No 220/2008 for the establishment of the system for promoting the production of energy from renewable energy sources, republished, with subsequent amendments and additions;
  - k) contributing to the creation of energy generation capacities to reduce emissions;
  - l) efficient and rational use of energy raw material resources in line with the strategic interest of Romania's sustainable development and the safe and stable functioning of the SEN in order to achieve national energy independence.

#### Art. 10: Categories of authorisations and licences

- (1) The competent authority shall issue authorisations to set up new power generation capacities, including electricity and heat generation capacities in cogeneration, or to refurbish them or to develop new storage facilities, as follows:
  - a) if the maximum power flowed into the network of those capacities exceeds 1 MW, it is necessary to obtain a start-up authorisation;
  - b) if the maximum power flowed into the network of those capacities is less than including 1 MW, it shall not be necessary to obtain a start-up authorisation, but the notification to the competent authority

of the investment project and the regular reporting of the state of completion, in accordance with the regulations in force, shall be required.

(2) The competent authority shall issue licences for:

- a) commercial exploitation of power generation capacities and energy storage facilities added to generation capacity;
- b) commercial exploitation of electricity and heat generation capacities from cogeneration power plants and energy storage facilities added to generation capacity;
- c) the provision of the electricity transmission service;
- d) the provision of the system service;
- e) the provision of the electricity distribution service;
- f) management of centralised markets – one licence is granted to the electricity market operator and one to the balancing market operator;
- g) electricity supply activity;
- h) the activity of the electricity trader;
- i) aggregation activity;
- j) the commercial operation of energy storage facilities; where the storage facility is installed within an existing production capacity, the commercial exploitation licence of the production capacity shall be modified for the purpose of adding storage equipment.

(3) The authorisations to set up new capacities referred to in paragraph 1 shall be granted only if those capacities are located on public/private property of the State or of the administrative-territorial units on the private property of the applicant for the establishment authorisation or on property held under another legal title.

(4) Licenses for commercial exploitation of energy capacities shall be granted if the energy capacities are located on/in buildings public or private property of the state or administrative-territorial units, on the private property of the license applicant, on the private property of natural or legal persons or/in buildings held with a legal title other than that of ownership.

(4x) The license for the provision of the distribution service shall be granted to economic operators who have concluded concession contracts of the distribution service with the relevant ministry under the law, called concessionary distribution operators.

(42) The supply of the distribution service is permitted without holding a license granted by ANRE in accordance with the provisions of this Title to the distribution operators of closed distribution systems on the basis of the decision provided for in Article 50(5), distribution operators or administrators of industrial parks within industrial parks established according to the Law no. 186/2013 on the establishment and functioning of industrial parks, as amended, distribution operators or managers of free zones within free zones established under Law no. 84/1992 on the regime of free zones, with subsequent amendments and additions, regardless of power, as well as to other economic operators that hold distribution networks supplying consumer places outside the industrial parks, namely the previously defined free zones, with approved electrical powers of less than 3 MW. These provisions shall also apply to electricity networks located outside the limits of the industrial fleet, i.e. the free zone, up to the point of demarcation with the concessionaire's electricity distribution network or the transmission grid, subject to the following conditions:

- a) the electrical powers approved for places outside the industrial park limit, i.e. the free zone powered from the power grids, are cumulatively below 3 MW;
- b) there is a written notification to the concessionary distribution operator in the industrial park location region or of the free zone concerned of the provision of the distribution service through these power grids.

(43) By way of exception to the provisions of paragraph (41) ANRE shall grant a license for the

provision of the electricity distribution service by economic operators holding distribution networks in an area leased to another economic operator if they have the written consent of the concessionary distribution operator, within the same concession period. The concessionaire distribution operator may refuse the written agreement only if that refusal is reasoned and justified on the basis of objective, technical and/or economic criteria. Where the concessionary distribution operator refuses to issue the above agreement, it shall ensure that users of the refused economic operator are connected, in accordance with the rules approved by the competent authority, under conditions of economic efficiency at least equal to the connection solution in the refused request, including taking into account the applicable distribution tariffs.

(5) Commercial exploitation of the power generation capacities may be carried out without holding a license granted by ANRE according to the provisions of this Title, by:

a) the holder of power generation capacities that can be switched on without voltage from the SEN, self-starting groups and used by it for the purpose of supplying the safety of its own equipment or installations;

b) holder of power generation capacities, including electricity and heat produced in cogeneration power plants connected to the power grid, with a total power output of less than 1 MW.

(51) Natural and legal persons carrying out activities in the field of energy without being required to hold a licence shall enjoy the same rights as a licence holder for that activity or service.

(52) In order to facilitate the financing of investments in electricity generation capacity, a natural or legal person shall have the right to contract, as a producer, under the terms of the regulations issued by ANRE, the electricity to be produced by the new power capacity, without holding, at the time of the energy trading, the licence referred to in paragraph 2 (a).

(53) The natural or legal person referred to in<sup>paragraph52</sup>, with the exception of the holders of production capacity referred to in paragraph 5 (b), shall be required to obtain the licence referred to in paragraph 2 (a) at least 60 days before the time of supply of electricity produced by the new energy capacity. If the obligation is not fulfilled, contracts concluded in accordance with<sup>paragraph52</sup> shall be terminated with the application of the clauses in the contract relating to termination of fault of the party who has not complied with the obligation and do not produce their effects on the supply of electricity.

(6) The activity of a natural or legal person to resale electricity to users of power networks in service shall be carried out without the supply licence referred to in paragraph 2 (b).

f) Subject to compliance with the specific rules approved by the competent authority.

(7) In order to market electricity obtained from a processing contract, the economic operator part of such a contract shall hold the supply licence referred to in paragraph 2 (b).

g) IT'S ALL RIGHT.

(8) Authorisations and licences shall be amended in the event of a change in the circumstances or conditions existing at the time of their granting.

#### Art. 11: Suspension and withdrawal of authorisations and licences

(1) In the event of failure by the holder of the authorisation to establish or license his or her legal obligations, as well as in the event of non-compliance with the conditions, limitations, restrictions, prohibitions or tasks established by the authorisation, i.e. by the licence, established by the competent authority of its own motion or on referral to third parties or upon notification by the holder, the competent authority shall proceed as follows:

a) if the failure or failure to comply with obligations is not attributable to the holder, he shall order:

- a time limit for compliance, if the situation created is rectifiable;

- withdrawal of authorisation or licence if the situation created is irreparable;

b) if the failure or failure to comply with obligations is attributable to the holder, he shall order:

- suspension of the authorisation, i.e. the licence, for a period fixed to remedy the situation created and for compliance with the authorisation, i.e. the licence, if the situation created is remedial;
- withdrawal of the authorisation, i.e. the licence, if the situation created is irreparable.

(2) The competent authority shall withdraw the authorisation to set up, i.e. the licence, in the event of the failure, incapacity or bankruptcy of the holder, and upon termination of the concession or location of the power capacity or upon the sale of capacity by the holder.

#### Art. 12: Rights and obligations arising from the establishment authorisation and licences

(1) The construction and refurbishment of the energy capacities for which authorisations are granted and the activities and services for which licences are granted, as appropriate, shall be of public interest, except those intended solely for the satisfaction of the holder of the authorisation or licence.

(2) On land and property public or private property of other natural or legal persons and activities carried out by natural or legal persons in the vicinity of energy capacity shall be established limitations on ownership rights in favour of holders of establishment authorisations and licences benefiting from:

- a) the right of use for the execution of the works necessary for the completion, resettlement, refurbishment or dismantling of energy capacity, object of the authorisation;
- b) the right of use to ensure the normal functioning of the capacity, object of the authorisation to set up, for the necessary revisions, repairs and interventions;
- c) subterranean, surface or aerial passage bondage for the installation/dismantling of electrical networks or other equipment related to energy capacity and for access to their location under the law;
- d) the right to obtain the restriction or cessation of activities that could endanger persons and property;
- e) right of access to public utilities.

In the unitary interpretation and application of the provisions of Article 16(2), (3), (5), (6), (7), (9), (10), Article 19(3), Article 20(3), Article 35(3) and Article 41(4) of the Electricity Law No 13/2007, with subsequent amendments and additions, respectively to the provisions of Article 12(2), (3), (5), (5), (3), (Higher) and (Higher).

The holders of the private property rights affected by energy capacities may claim compensation for non-use only to the extent that the energy capacities have been achieved after the entry into force of the Electricity Act 13/2007; for previously realised energy capacities, the exercise by holders of authorisations to set up and license holders of rights of use and servitude shall be carried out free of charge, in accordance with the special provisions in force at the time of their entry into service.

Holders of the private property rights affected by energy capacities may claim compensation for damage caused by holders of licenses and license holders, in the exercise of the rights of use and servitude, regardless of the time when energy capacity is realised (previously or after the entry into force of the Electricity Act No. 13/2007).

The provisions of Art. 35 par. (3) and Art. 41 par. (4) of Law no. 13/2007, respectively those of Art. 30 par. (4) and Art. 44 par. (4) of Law no. 123/2012 preclude the holders of the right to private property affected by the transmission or distribution networks existing at the date of entry into force of the law to obtain compensation for inuse from the holder of the right of ownership of the land on which the respective energy capacities are located,

(3) The rights of use and servitude shall have the object of public utility, shall be lawful in nature, and their content is provided for in Article 14 and shall be exercised without entry in the Land Book throughout the existence of energy capacity or, temporarily, on the occasion of the refurbishment of a capacity in operation, repair, revision, intervention works in the event of failure.

In the unitary interpretation and application of the provisions of Article 16(2), (3), (5), (6), (7), (9), (10), Article 19(3), Article 20(3), Article 35(3) and Article 41(4) of the Electricity Law No 13/2007, with subsequent amendments and additions, respectively to the provisions of Article 12(2), (3), (5),



(5), (3), (Higher) and (Higher).

The holders of the private property rights affected by energy capacities may claim compensation for non-use only to the extent that the energy capacities have been achieved after the entry into force of the Electricity Act 13/2007; for previously realised energy capacities, the exercise by holders of authorisations to set up and license holders of rights of use and servitude shall be carried out free of charge, in accordance with the special provisions in force at the time of their entry into service.

Holders of the private property rights affected by energy capacities may claim compensation for damage caused by holders of licenses and license holders, in the exercise of the rights of use and servitude, regardless of the time when energy capacity is realised (previously or after the entry into force of the Electricity Act No. 13/2007).

The provisions of Art. 35 par. (3) and Art. 41 par. (4) of Law no. 13/2007, respectively those of Art. 30 par. (4) and Art. 44 par. (4) of Law no. 123/2012 preclude the holders of the right to private property affected by the transmission or distribution networks existing at the date of entry into force of the law to obtain compensation for inuse from the holder of the right of ownership of the land on which the respective energy capacities are situated, based on this case.

(4) The exercise of rights of use and servitude on the property of the state and of the administrative-territorial units affected by energy capacities shall be carried out free of charge throughout their existence.

(5) The exercise of the rights of use and servitude on private property affected by energy capacities, which will take place after the entry into force of the present laws, shall be in accordance with the procedural rules on conditions and terms relating to the duration, content and limits for the exercise of these rights laid down in a framework convention, as well as for determining the amount of allowances, compensation and the manner of payment thereof, which shall be approved, together with the framework agreement, by Government decision, on a proposal from the Ministry of Finance.

In the unitary interpretation and application of the provisions of Article 16(2), (3), (5), (6), (7), (9), (10), Article 19(3), Article 20(3), Article 35(3) and Article 41(4) of the Electricity Law No 13/2007, with subsequent amendments and additions, respectively to the provisions of Article 12(2), (3), (5), (5), (3), (Higher) and (Higher).

The holders of the private property rights affected by energy capacities may claim compensation for non-use only to the extent that the energy capacities have been achieved after the entry into force of the Electricity Act 13/2007; for previously realised energy capacities, the exercise by holders of authorisations to set up and license holders of rights of use and servitude shall be carried out free of charge, in accordance with the special provisions in force at the time of their entry into service.

Holders of the private property rights affected by energy capacities may claim compensation for damage caused by holders of licenses and license holders, in the exercise of the rights of use and servitude, regardless of the time when energy capacity is realised (previously or after the entry into force of the Electricity Act No. 13/2007).

The provisions of Art. 35 par. (3) and Art. 41 par. (4) of Law no. 13/2007, respectively those of Art. 30 par. (4) and Art. 44 par. (4) of Law no. 123/2012 preclude the holders of the right to private property affected by the transmission or distribution networks existing at the date of entry into force of the law to obtain compensation for inuse from the holder of the right of ownership of the land on which the respective energy capacities are located,

(6) Landowners affected by the exercise of rights of use and servitude by licence holders and authorisations may request the conclusion of conventions in accordance with paragraph.

(5)IT'S ALL RIGHT.

In the unitary interpretation and application of the provisions of Article 16(2), (3), (5), (6), (7), (9), (10), Article 19(3), Article 20(3), Article 35(3) and Article 41(4) of the Electricity Law No 13/2007,

with subsequent amendments and additions, respectively to the provisions of Article 12(2), (3), (5), (5), (3), (Higher) and (Higher).

The holders of the private property rights affected by energy capacities may claim compensation for non-use only to the extent that the energy capacities have been achieved after the entry into force of the Electricity Act 13/2007; for previously realised energy capacities, the exercise by holders of authorisations to set up and license holders of rights of use and servitude shall be carried out free of charge, in accordance with the special provisions in force at the time of their entry into service.

Holders of the private property rights affected by energy capacities may claim compensation for damage caused by holders of licenses and license holders, in the exercise of the rights of use and servitude, regardless of the time when energy capacity is realised (previously or after the entry into force of the Electricity Act No. 13/2007).

The provisions of Art. 35 par. (3) and Art. 41 par. (4) of Law no. 13/2007, respectively those of Art. 30 par. (4) and Art. 44 par. (4) of Law no. 123/2012 preclude the holders of the right to private property affected by the transmission or distribution networks existing at the date of entry into force of the law to obtain compensation for inuse from the holder of the right of ownership of the land on which the respective energy capacities are located,

(7) Benefits and compensations respectively and landowners affected by the exercise of rights of use and servitude by holders of licenses and authorisations which at the time of entry into force of this Law have in effect conventions on the exercise of these rights concluded under the terms of the law.

(8) Holders of licences and authorisations shall be required to conclude the framework conventions referred to in paragraph 5 within 30 days of the request of the affected owners.

In the unitary interpretation and application of the provisions of Article 16(2), (3), (5), (6), (7), (9), (10), Article 19(3), Article 20(3), Article 35(3) and Article 41(4) of the Electricity Law No 13/2007, with subsequent amendments and additions, respectively to the provisions of Article 12(2), (3), (5), (5), (3), (Higher) and (Higher).

The holders of the private property rights affected by energy capacities may claim compensation for non-use only to the extent that the energy capacities have been achieved after the entry into force of the Electricity Act 13/2007; for previously realised energy capacities, the exercise by holders of authorisations to set up and license holders of rights of use and servitude shall be carried out free of charge, in accordance with the special provisions in force at the time of their entry into service.

Holders of the private property rights affected by energy capacities may claim compensation for damage caused by holders of licenses and license holders, in the exercise of the rights of use and servitude, regardless of the time when energy capacity is realised (previously or after the entry into force of the Electricity Act No. 13/2007).

The provisions of Art. 35 par. (3) and Art. 41 par. (4) of Law no. 13/2007, respectively those of Art. 30 par. (4) and Art. 44 par. (4) of Law no. 123/2012 preclude the holders of the right to private property affected by the transmission or distribution networks existing at the date of entry into force of the law to obtain compensation for inuse from the holder of the right of ownership of the land on which the respective energy capacities are located,

(9) If, during the intervention for refurbishments, repairs, revisions or damages, damages occur to owners in the vicinity of energy capacities, licence holders shall be required to pay compensation under the terms of this law.

(10) Landowners and holders of activities affected by the exercise by licence holders and authorisations of the rights referred to in paragraph 2 shall be compensated for the damage caused to them. The following criteria shall be taken into account when calculating compensation:

- the area of land affected when the works are carried out;
- the types of crops and plantations and the facilities affected by the works;

- restricted activities in the course of work.

The amount of compensation shall be determined by agreement of the parties or, if the parties are not understood, by court order.

In the unitary interpretation and application of the provisions of Article 16(2), (3), (5), (6), (7), (9), (10), Article 19 paragraph (3), Article 20 paragraph 3, Article 35 paragraph 3 and Article 41(4) of the Law on Electricity No 13/2007, as amended and supplemented, respectively, to the provisions of Article 12 (2), (3), (5), (6), (8), (8) and

(11) Art. 14 par. (3), Art. 15 par. (3), Art. 30 par. (4) and Art. 44 par. (4) of the Law on Electricity and Natural Gas No. 123/2012, as amended and supplemented, the High Court of Cassation and Justice establishes that:

The holders of the private property rights affected by energy capacities may claim compensation for non-use only to the extent that the energy capacities have been achieved after the entry into force of the Electricity Act 13/2007; for previously realised energy capacities, the exercise by holders of authorisations to set up and license holders of rights of use and servitude shall be carried out free of charge, in accordance with the special provisions in force at the time of their entry into service.

Holders of the private property rights affected by energy capacities may claim compensation for damage caused by holders of licenses and license holders, in the exercise of the rights of use and servitude, regardless of the time when energy capacity is realised (previously or after the entry into force of the Electricity Act No. 13/2007).

The provisions of Art. 35 par. (3) and Art. 41 par. (4) of Law no. 13/2007, respectively those of Art. 30 par. (4) and Art. 44 par. (4) of Law no. 123/2012 preclude the holders of the right to private property affected by the transmission or distribution networks existing at the date of entry into force of the law to obtain compensation for inuse from the holder of the right of ownership of the land on which the respective energy capacities are located,

(11) The right of use and servitude on private property land, the restriction or termination of certain activities referred to in paragraph 2 shall be established and exercised in accordance with the principles of fairness, ownership and minimum damage to it.

In the unitary interpretation and application of the provisions of Article 16(2), (3), (5), (6), (7), (9), (10), Article 19(3), Article 20(3), Article 35(3) and Article 41(4) of the Electricity Law No 13/2007, with subsequent amendments and additions, respectively to the provisions of Article 12(2), (3), (5), (5), (3), (Higher) and (Higher).

The holders of the private property rights affected by energy capacities may claim compensation for non-use only to the extent that the energy capacities have been achieved after the entry into force of the Electricity Act 13/2007; for previously realised energy capacities, the exercise by holders of authorisations to set up and license holders of rights of use and servitude shall be carried out free of charge, in accordance with the special provisions in force at the time of their entry into service.

Holders of the private property rights affected by energy capacities may claim compensation for damage caused by holders of licenses and license holders, in the exercise of the rights of use and servitude, regardless of the time when energy capacity is realised (previously or after the entry into force of the Electricity Act No. 13/2007).

The provisions of Art. 35 par. (3) and Art. 41 par. (4) of Law no. 13/2007, respectively those of Art. 30 par. (4) and Art. 44 par. (4) of Law no. 123/2012 preclude the holders of the right to private property affected by the transmission or distribution networks existing at the date of entry into force of the law to obtain compensation for inuse from the holder of the right of ownership of the land on which the respective energy capacities are located,

(12) Byway of derogation from forest-specific legislation, exclusively for network safety and

protection zones, holders of electricity permits and licenses shall carry out maintenance/forest operation on land located under/over the electricity grids, in order to create and maintain the distance from the grids necessary for the safe operation of the networks, with the obligation to notify in advance the forest fund manager or the owner of the land, as appropriate.

(14) The holders of authorisations and licences beneficiaries of rights of use and servitude on public or private property of the State and of administrative-territorial units shall be exempted from any payment obligations imposed by the central and local public administration authorities relating to the exercise of these rights.

(13) [The text of Article 12(13) of Title I, Chapter III, Section 1 was repealed in 01-ian-2016 by Article 502(1), point 6 of Title XI of the 2015 Fiscal Code]

Art. 13: Obligations arising from start-up authorisations and licences

(1) The holder of the establishment authorisation shall have the following obligations:

- a) establish and apply, throughout the duration of the execution of the works, measures to protect persons, goods and the environment;
- b) obtain all the opinions, agreements and endorsements provided for by law in order to achieve the authorised objective.

(2) During the period of validity of licences, licence holders shall be obliged to:

- a) comply with the conditions accompanying the licence;
- b) in the case of economic operators in the field of electricity, they must organise the accounts using separate accounts for each of the transmission and distribution activities, as they would be required to do if those activities were carried out by separate economic operators so as to allow for accurate reflection of the income and expenditure related to each activity, in order to avoid discrimination and cross-subsidisation and distortion of competition, and to encourage competition; they shall also keep separate accounts, which may be consolidated, for other activities in the electricity sector as well as for activities outside the electricity sector; revenues resulting from ownership of the transmission or distribution network shall be specified separately in analytical revenue accounts; internal accounts shall comprise a balance sheet and a profit and loss account for each activity;
- c) provide and maintain financial guarantees enabling them to carry out their business and ensure continuity of service;
- d) provide the competent authority with the information necessary for the proper conduct of its activity;
- e) Draw up, submit for audit and publish their annual accounts at company level, without distinctly covering secondary establishments without having legal personality in accordance with specific legislation adopted in accordance with the Fourth Council Directive 78/660/EEC of 25 July 1978.

(3) Economic operators who are not required to publish the annual accounts shall keep at their premises a copy of them available to the public.

(4) The audit activity referred to in paragraph 2(e) shall consist, in particular, of verifying compliance with the obligation to avoid discrimination and cross-subsidisation between the activities carried out by the audited economic operator.

Art. 14: Rights and obligations of holders of establishment and licensing authorisations in respect of third party ownership

(1) Right of use on the land for the execution of the necessary works

the realisation/relocation/dismantling or refurbishment of energy capacities extends over the time necessary for the execution of the works. In exercising this right of use, the holder of the authorisation to set up/relocate/disestablishment or refurbishment, as appropriate, in compliance with the legal provisions, may:

- a) store, on land necessary for the execution of works, materials, equipment, machinery, installations;

- b) abolish or restrict existing crops or plantations, forest vegetation, construction or other existing facilities to the extent strictly necessary for the performance of authorised capacity under the law;
- c) remove materials, capture water, under the conditions laid down in the legislation in force;
- d) install and work with machinery, place offices and construction sites, with the prior consent of the owner;
- e) to stop or restrict the activities of the owner, to the extent strictly necessary to perform the works for the authorised capacity, in compliance with the legal provisions in force.

(2) In order to carry out the necessary works, maintenance, repairs and exploitation of energy capacities, holders of authorisations and licenses shall have the right to temporarily use the public property, including land forming part of the national forest fund, by way of derogation from the provisions of Art. 42 par. (1) letter b) of Law no. 46/2008 —Forest Code, republished, with subsequent amendments and additions.

(3) The right of use referred to in paragraph 1 shall cease before the expiry of the period fixed for the execution of the works or before that period, on the date of early completion of the works or on the date of their termination and the waiver of authorisations. Any of these situations shall be notified immediately to the owner.

(4) The right of use on the land to ensure the normal functioning of the energy capacity shall extend throughout the duration of the capacity operation and shall be exercised whenever necessary to ensure the normal functioning of the capacity. In exercising this right, the licence holder may:

- a) store materials, equipment, machinery, maintenance facilities, revisions, repairs and interventions necessary to ensure the normal functioning of the capacity;
- b) install and work with machinery;
- c) abolish or reduce existing crops, plantations, vegetation or other existing facilities and restrict the activities of the owner, in so far as it is strictly necessary for the execution of maintenance, repairs, revisions or interventions to ensure normal capacity operations, in compliance with the legislation in force.

(5) By way of derogation from the provisions of Art. 40 par. (1) of Law no. 46/2008, republished, with subsequent amendments and additions, to the achievement of investment objectives declared of public utility and of national interest, under the law, the temporary occupation of private property land from the national forest fund and forested pastures and meadows shall be made after submission by the holder of the authorisation/licence/concession contract of the following proofs of compliance with the obligations of notification and award of compensation/payments:

- a) the lease/convention agreement between the parties, the term of payment of the allowances/payments being 30 days after the conclusion of the lease/convention agreement, if the owners are identified;
- b) proof of prior record, in accounts opened in the name of licence holders/concession contract, of the amounts of money related to compensations, allowances, where applicable, for such real estates if the owners are not identified;
- c) proof of prior record at their disposal within 60 days of the date on which they were notified to present themselves for signature of the conventions but did not appear or refused to conclude the Convention, of the amounts relating to the damages/insurances, if the owners are identified but do not appear or refuse to conclude the Convention.

(6) The holder of the licence shall be obliged to notify in writing the owner of the goods or the provider of the activities which will be affected as a result of works on energy capacities, except in cases of damage and those caused by force majeure situations, in which case the owners are notified within the shortest period.

(7) The holder of the licence shall be obliged to pay the owners the compensation due for the damage caused, to release the land and restore it to the previous situation as soon as possible.

(8) Subterranean, surface or aerial clearance shall comprise the right of access and execution of works at the location of the energy capacity during the intervention for refurbishments, repairs, revisions and damage.

(9) In order to avoid jeopardising the persons, goods or activities carried out in the area of execution of works of accomplishment or refurbishment of energy capacities, as well as of the revision or repair operations to the capacity in operation, the holder of the authorisation or license shall have the right to obtain the restriction or termination, throughout the works, of the activities carried out in the vicinity by other persons, with the obligation to compensate them, according to the provisions of this law. In this case, the persons affected shall be informed in writing of the date of commencement and completion of the works, except in cases caused by force majeure situations.

(10) Upon termination of the rights referred to in Article 12(2), the holder of the authorisation to set up and the holder of the licence shall be obliged to ensure the release of the land and its reinstatement in the initial situation.

(11) The right of access to public utilities referred to in Article 12 (2) (e) must be exercised by the holder of the authorisation or licence in good faith and reasonably without prejudice to other persons' access to such public utilities.

#### Art. 15: Protection zones and safety zones

(1) Protection and safety zones shall be established for the normal protection and functioning of energy capacities and their annexes and in order to avoid endangerment of persons, goods and the environment.

(2) Protection and safety zones shall be determined for each capacity in accordance with technical rules developed by the competent authority.

(3) Third party land covered by protection and safety zones shall be established as legal servitude. In the unitary interpretation and application of the provisions of Article 16(2), (3), (5), (6), (7), (9), (10), Article 19(3), Article 20(3), Article 35(3) and Article 41(4) of the Electricity Law No 13/2007, with subsequent amendments and additions, respectively to the provisions of Article 12(2), (3), (5), (5), (3), (Higher) and (Higher).

The holders of the private property rights affected by energy capacities may claim compensation for non-use only to the extent that the energy capacities have been achieved after the entry into force of the Electricity Act 13/2007; for previously realised energy capacities, the exercise by holders of authorisations to set up and license holders of rights of use and servitude shall be carried out free of charge, in accordance with the special provisions in force at the time of their entry into service. Holders of the private property rights affected by energy capacities may claim compensation for damage caused by holders of licenses and license holders, in the exercise of the rights of use and servitude, regardless of the time when energy capacity is realised (previously or after the entry into force of the Electricity Act No. 13/2007).

The provisions of Art. 35 par. (3) and Art. 41 par. (4) of Law no. 13/2007, respectively those of Art. 30 par. (4) and Art. 44 par. (4) of Law no. 123/2012 preclude the holders of the right to private property affected by the transmission or distribution networks existing at the date of entry into force of the law to obtain compensation for inuse from the holder of the right of ownership of the land on which the respective energy capacities are located,

#### Art. 16: Public service obligations

(1) Holders of establishment authorisations and licences shall be required to carry out their activities in compliance with public service obligations relating to the safety, quality and price of electricity supplied, continuity of supply, energy efficiency, compliance with safety and health standards of work and environmental protection, as well as the provisions of direct consumer contracts.

(2) Public service obligations may be established by Government Decision or through ANRE regulations, in which case ANRE shall notify the European Commission, through licenses or

authorisations to set up, for each activity in the electricity sector.

#### Art. 17: Expropriation

- (1) The land necessary for the establishment and operation of energy capacity shall be either private property of a third party or the holder of the authorisation or public property.
- (2) If the land necessary for the establishment and operation of the energy capacity is privately owned by a third party, the applicant for the establishment authorisation shall have as the first option the purchase of the land from the owner or to initiate the legal procedure for expropriation of the land for public utility cause, with compensation to the owner, under the terms of the law, and to obtain its concession during the existence of energy capacity.

#### Section 2: Procedures for new energy production capacities Art. 18:

##### Tendering procedure and other procedures

- (1) Where, following the authorisation procedure, the production capacities to be constructed or the measures taken in the energy efficiency-oriented management and demand-side manner are not sufficient to ensure security of supply for internal consumption, the relevant ministry may initiate a tendering procedure or any other similar procedure for awarding a contract, under conditions of transparency and non-discrimination, on the basis of published criteria inviting new economic operators or holders of a pre-existing production licence to tender for the production of new power capacities.
- (2) Under the terms of paragraph 1 and in order to ensure environmental protection and the promotion of new technologies, the relevant Ministry may initiate a tender procedure for the development of new electricity generation capacities. This procedure may refer to new capacities or energy efficiency-oriented management resources and meet demand.
- (3) The successful tenderer shall be granted authorisation to set up and license as provided for in Section 1 of this Chapter.
- (4) The procedure for conducting the tender for new production capacities, as well as the list of criteria underlying the selection of tenders and the award of the contract shall be approved by Government decision, at the proposal of the relevant ministry.
- (5) The procedure referred to in paragraph 4 shall be developed in accordance with the following principles:
  - a) information on the tendering procedure for production capacities and energy efficiency measures and the satisfaction of the demand shall be published in the Official Journal of the European Union at least 6 months before the final deadline for the submission of tenders;
  - b) the specifications shall be made available to any economic operator concerned at his request;
  - c) the specifications shall contain a detailed description of the contract specifications and the procedure to be followed by all tenderers, as well as the complete list of criteria determining the selection of tenderers and the award of the contract, including incentives, such as grants, which are covered by the tender;
  - d) for invitations to tender relating to the expected production capacity to be required, electricity supply tenders with long-term guarantees proposed by existing production units should also be taken into account, provided that they allow additional needs to be met.
- (6) The organisation, monitoring and control of the tendering procedure shall be carried out by the transmission system operator.

#### Art. 19: It's the concession. Subject matter of the concession and contracting authority

- (1) Public or private property of the State, activities and public services of national and general interest in the field of electricity may be the subject of an energy concession.<sup>(11)</sup>The annual royalty for the concessions referred to in paragraph 1 shall be 0,4 % and shall be paid by [transmission operator of electricity from the amount of gross income from operations of transmission and transit of electricity through national transmission systems owned](#)

public of the state.

- (2) The Ministry of Public or Private Property of the State in the field of energy, as well as public services of general interest and national interest in the field of electricity, has the status of contracting authority. Electricity transmission networks, land on which they are located and the public electricity transmission service shall be exempted.
- (3) The status of contracting authority for the electricity transmission grid and the land on which it is located as well as for the public electricity transmission service shall be the central public authority designated as the contracting authority of the State for that purpose.
- (4) The general framework on the legal regime of concession contracts, the procedures for granting concessions, and the framework content of the specification are developed by the contracting authority, in accordance with the provisions of the law, and approved by Government Decision.
- (5) The conditions for granting, maintaining, suspending and withdrawing the concession shall be determined by the concession contract concluded by the contracting authority and approved in accordance with the provisions of this Law.

#### Chapter IV: Electric energy Art. 20:

##### Electricity market

- (1) The electricity market is composed of the regulated market and the competitive market and energy transactions are wholesale or retail.
- (2) The increase in the competitive market shall be gradually achieved by ensuring access to this market for as many participants, producers, suppliers and final customers as possible, in accordance with the provisions of Article 23.
- (3) The Dispute Resolution Commission is hereby established as a body to resolve disputes in the wholesale and retail markets between electricity market participants.
- (4) The dispute resolution committee consists of 5 members, who are appointed by decision of the president of ANRE for a period of 3 years, among ANRE specialists with at least 8 years old in the electricity sector.
- (5) The dispute resolution committee operates on the basis of an organisation and functioning regulation, approved by decision of the president of ANRE, after public consultation.

##### Art. 21: Electricity market participants

- (1) Participants in the electricity market shall comply with the rules of operation of the electricity market, as laid down in favourable orders, decisions and opinions issued by the competent authority, and make payments for electricity and their services resulting from transactions carried out in accordance with those rules within the deadlines laid down in contracts concluded between the parties.
- (2) Electricity market participant shall mean a natural or legal person who purchases, sells or produces electricity, who is involved in the aggregation or is an operator of dispatchable consumption or energy storage services, including by placing trading orders on one or more electricity markets, including energy balancing markets.
- (3) Market participants shall be obliged to assume financial responsibility for the payment of imbalances they generate in the electricity market, with the exception of imbalances for which socialisation/redistribution rules established by the competent authority or explicitly laid down by the legislation in force apply, to comply with the provisions of licences and regulations issued by the competent authority. Payment obligations will be paid within one month of the end of the trading month on the basis of the quantities of transactional electricity measured.
- (4) Customers are required to pay the value of the electricity bills and the services they receive, within the deadlines laid down in contracts concluded between the parties, and the provision of financial guarantees to avoid risks of default on the electricity market.
- (5) Participants in the electricity market shall notify the transmission system operator of imports,



exports and transits on trading intervals with external partners on each border.

(6) Participants in the electricity market shall notify the transmission system operator of all mutually contracted net quantities.

(7) Participants in the electricity market are obliged to provide the electricity market operator with information on the quantities of transactional electricity relating to the contracts for the sale and purchase of electricity concluded.

Art. 22: Functioning of the regulated electricity market

(1) The supply of electricity under regulated conditions shall be made to ensure the supply of electricity to customers referred to in Article 55(1) by 31 December 2013 for non-household customers, i.e. until 31 December 2017 for household customers.

(1x) Until 31 December 2020, for household customers the supply of electricity shall be made under conditions regulated by ANRE.

(2) On the regulated market, the competent authority shall be entitled to:

- a) impose public service obligations on producers, transmission system operator, distribution operators and suppliers of last resort to ensure the supply of electricity to customers referred to in Article 55 (1) in accordance with Article 16;
- b) impose on suppliers of last resort transparent procedures for the purchase of electricity on the competitive market for customers referred to in Article 55(1);
- c) approve and publish the prices and quantities of contracts concluded between producers and suppliers to customers referred to in Article 55(1);
- d) approve and publish the tariffs applied by suppliers of last resort to household customers for the period until 31 December 2020;
- e) approve methodologies for monitoring the expenditure on the purchase of electricity in accordance with point b);
- f) to advise and publish the prices proposed by suppliers of last resort for electricity supplied to customers referred to in Article 55(1) after the abolition of regulated tariffs.

(3) In order to ensure the operational safety of the SEN, the competent authority may approve the prices and quantities of contracts for the procurement and delivery of the system services.

(4) The supply of electricity to customers referred to in Article 55(1) under the terms of paragraph 1 shall be made on the basis of regulated contracts.

(5) The competent authority will continuously monitor the effect of the regulated market on the competitive electricity market and take the necessary measures to avoid potential distortions and increase transparency in commercial transactions.

(6) The competent authority shall organise, as part of the monitoring action, a detailed annual assessment of the functioning of the electricity market, subject to the gradual waiver of the regulated tariffs for non-household customers referred to in Article 55.

(1) point a), in which, at least, the following general indicators will be used:

- a) the number of suppliers active in the electricity market each year;
- b) the market share of each of the active suppliers;
- c) the economic and financial capability of active suppliers and their behaviour in the market;
- d) the evolution of the annual number of changes of the energy supplier by category of customers;
- e) the level and evolution of market prices;
- f) the degree of information for final customers on the electricity market;
- g) facilities for vulnerable customers and their number;
- h) number of clients benefiting from universal service under the conditions of this law;
- i) the degree of transparency of information in the energy market.

(7) On the basis of the monitoring process referred to in paragraphs 5 and 6, ANRE shall draw up a report every 2 years on prices regulated as public service obligations and their impact on the electricity

market.

(8) The timetable for the phasing out of regulated prices for final customers, starting on 1 September 2012 for non-household customers, i.e. on 1 July 2013 for household customers, shall be established taking into account the possible negative effects of the elimination of regulated prices so that they are as little as possible felt by customers.

Art. 23: Functioning of the competitive market

(1) Electricity transactions are carried out on the competitive market in a transparent, public, centralised and non-discriminatory manner.

(2) On the competitive market, commercial transactions are made wholesale or retail, according to ANRE regulations, prices are formed based on supply and demand as a result of competitive mechanisms.

(2x) By exception to paragraph 1, in the competitive, wholesale or retail markets, producers may conclude bilateral contracts outside the centralised market, at negotiated prices, subject to competition rules, for electricity from new power generation capacities put into service after 1 June 2020.

(3) In the competitive electricity market, the transmission system operator may purchase technological system services.

(4) In the competitive retail market, suppliers sell electricity to final customers through bilateral contracts at prices negotiated or set by standard offers.

(5) Relevant data such as duration, delivery and settlement rules, quantity, execution deadlines, transaction prices, means of identification of the wholesale customer, all transactions under electricity supply contracts and electricity derivatives concluded with wholesale customers and transmission system operators shall be kept by suppliers for at least 5 years and shall be made available to ANRE, the European Commission and the other competent national authorities at their request.

(6) The obligation to retain data relating to transactions in derivatives applies in accordance with the provisions of guidelines published by the European Commission.

(7) The data provided under par. (6) may 11 published by ANRE, in compliance with the law.

(8) On the competitive market, ANRE has the right to suspend the functioning of the competitive market, in case of application of the provisions of Art. 5 par. (4)- (7).

(9) The provisions of par. (8) shall be applied on the basis of a regulation approved by order of the President of ANRE, published in the Official Gazette of Romania, Part I, within 6 months of the entry into force of this Law.

(10) In the competitive wholesale market, ANRE has the right to approve the introduction and use of specific products in certain trading arrangements, in order to ensure flexibility in concluding forward electricity transactions, including flexible delivery profiles appropriate to producers of renewable energy. ANRE together with the electricity market operator shall regularly monitor and assess the impact of the use of flexible products.

(11) The specific products referred to in paragraph 10 shall be defined by at least one of the following characteristic elements:

a) the change in hourly power compared to the quantity tendered in the contract, up to a maximum percentage determined in accordance with the ANRE regulations, which does not affect the supply profile and the specific nature of the contract, but not more than  $\pm 100$  % for renewable energy producers;

b) updating the award price of a contract, on the basis of a formula containing terms and factors determined or determinable on the basis of public stock exchange indicators, specifying the public sources where the values of the indicators considered are updated.

(12) In order to comply with paragraph 1, the characteristic elements of specific products shall be published prior to the conclusion of the transactions.

(13) By way of derogation from paragraph 1, a market participant combining electricity produced by

more than one energy source may conclude bilateral contracts with holders of those sources.

(14) By way of derogation from paragraph 1, a market participant combining the tasks of more than one customer may conclude bilateral contracts with them and their suppliers.

Art. 24:

[Article 24 of Title I, Chapter IV, was repealed on 30-July 2020 by Article I, point 26 of Law 155/2020]

Art. 25: Access to the electricity grid

(1) The licenseholder and the final customer have regulated access to electricity networks of public interest. Access to public-interest electricity networks is a mandatory service under regulated conditions which the transmission system operator and the distribution system operator must perform.

(2) Access to the network may be restricted only if the connection affects the safety of the SEN, by non-compliance with the technical rules and performance standards laid down in the technical regulations in force or where the transmission or distribution operator does not have the necessary capacities. The refusal must be duly substantiated and justified by objective criteria, from a technical and economic point of view, in accordance with the rules issued by the competent authority.

(3) Disputes over access to the grid shall be settled by the competent authority by issuing a decision binding on the parties within two months of receipt of the referral or complaint.

(4) The establishment of and access to direct power lines shall be regulated by the competent authority.

(5) The charge for access to the public-interest electricity grid shall be regulated.

(6) Power generators and suppliers may supply their own premises, subsidiaries or eligible customers through direct lines.

(7) Supply via a direct line in accordance with paragraph 6 shall be conditional on the absence of a reasonable economic and technical offer for access to the public-interest electricity grid.

(8) Direct power lines are carried out in compliance with the technical and safety norms contained in the technical regulations in force.

(9) Supply through a direct line must ensure that the conditions for consumer protection laid down in this Law are met.

(10) The holder of a direct line shall be required to ensure access to the direct line according to the regulations of the competent authority.

(11) Interconnection capacities financed by private commercial investment shall be achieved without prejudice to the provisions of Regulation (EC) No 714/2009.

(12) Decisions on the implementation of interconnection capacity investments shall be taken following a joint analysis by the transmission system operators concerned.

(13) The necessary steps and procedures for the connection of users to the transmission and distribution networks shall be established by the Regulation on the connection of users to public interest networks, approved by ANRE.

Art. 26: Connection contract

(1) At the written request of a new or pre-existing network user, the transmission system operator or distribution operator, as applicable, shall be obliged to communicate, in writing, within 30 days the technical and economic conditions for network connection and to cooperate with the applicant in choosing the most advantageous connection solution.

(2) The connection contract shall be concluded in accordance with the regulations issued by the competent authority.

(3) The transmission system operator or distribution system operator shall be entitled to refuse an applicant to update the notice of connection and/or to conclude a new transmission or distribution contract for a pre-existing place of consumption, where there is an ongoing contract for the supply of electricity concluded with another final customer for that place of consumption.

(4) When establishing the property demarcation point of the network operator's installations and its user shall be taken into account:

- a) type of installation: transport, distribution or use;
- b) land ownership limit, so that public domain power grids are usually owned by the network operator and avoid as far as possible the location of the network operator's facilities on the user's property;
- c) the connection, in perspective, by new users to the connection installation.

Art. 27: Electricity generation

(1) The production of electricity and the production of electricity and heat in cogeneration is carried out by economic operators who own units of electricity production, under the conditions of this law.

(2) Electricity generators can benefit from guaranteed access or priority access to the power grids, according to the ANRE regulations in force.

Art. 28: Obligations of manufacturers

Producers shall, in particular, have the following obligations:

- a) ensure the supply of electricity and the technological system services, in compliance with the conditions imposed by licences, contractual clauses and regulations in force;
- b) in the case of dispatchable units to offer all available electricity on the balancing market, defined in accordance with regulations issued by the competent authority;

BX) to deliver to suppliers of last resort, by December 31, 2020, the electricity necessary to ensure the consumption of household customers for whom regulated tariffs apply, in accordance with the regulations developed by ANRE;

For the period from 1 July 2020 to 31 December 2020, the obligation laid down in Article 28(b1) of the Law on Electricity and Gas No 123/2012, as amended and supplemented, shall apply to producers operating dispatchable production units, only for establishments which do not benefit from support schemes, in the increasing order of prices established by the competent authority, for all the amount of electricity required for households for which regulated tariffs are applied, so that they may not be increased beyond the level of the urgency of the current date of entry.

- c) Offer to the public and non-discriminatory on the competitive market all remaining electricity available after fulfilment of the obligation laid down in (b1), with the exception of electricity from the production capacity referred to in Article 23(21);
- d) offer non-discriminatory system technology services;
- e) do not transmit to the transmission system operator physical imbalance notifications in relation to the contracts they have concluded, with the exception of producers benefiting from support schemes, as provided for in this Title;
- f) maintain a sufficient fuel supply or, where appropriate, a sufficient supply of water, to ensure the safety of the SEN and to meet the obligations of continuous production and supply of electricity, which shall be remunerated in accordance with the regulations in force;
- g) meet operationally the requirements of the transmission system operator and establish, where appropriate, own operational driving steps;
- h) submit to the competent authority an annual activity report, in accordance with the rules in force, even if it does not hold the production licence or the capacities are transferred to another economic operator.

Art. 29: Rights of producers

(1) Electricity generators shall, in particular, have the following rights:

- a) have access to electricity networks of public interest under the terms of this Title;
- b) obtain, under the terms of the law, passageways for their own power lines;
- c) trade electricity and system technological services on the regulated and competitive market in a transparent and non-discriminatory manner;

CX) to trade electricity from the production capacity referred to in Article 23(21)<sup>by</sup> concluding bilateral contracts outside the centralised market at negotiated prices, subject to competition rules;

d) establish and maintain its own telecommunications system for linking with its production capacities, customers or operational management steps;

e) market heat from cogeneration;

f) access nationally established support schemes.

(2) Without jeopardising the functional safety of the SEN, electricity producers can offer on the European internal market technological system services according to ANRE regulations, with the opinion of the transmission system operator.

(3) Electricity generators shall have the right to draw up contracts with other producers, making a mixed energy supply, in order to supply on the internal market or to export electricity, in accordance with Article.

28 and the other legal provisions in force.

Art. 30: Transmission of electricity

(1) The electricity transmission activity is a public service of national interest.

(2) The transmission of electricity is carried out by transmission system operators, legal entities certified by the competent authority, under the conditions of this law.

(3) The electricity transmission network existing on the territory of Romania is the public property of the state for assets leased to the National Electric Energy Transmission Company “Transelectrica” – S.A., as well as for return goods under the concession contract and legal provisions.

(4) The land on which the transmission grid referred to in paragraph 3 is located shall be and shall remain in public ownership of the State for the duration of the network.

In the unitary interpretation and application of the provisions of Article 16(2), (3), (5), (6), (7), (9), (10), Article 19(3), Article 20(3), Article 35(3) and Article 41(4) of the Electricity Law No 13/2007, with subsequent amendments and additions, respectively to the provisions of Article 12(2), (3), (5), (5), (3), (Higher) and (Higher).

The holders of the private property rights affected by energy capacities may claim compensation for non-use only to the extent that the energy capacities have been achieved after the entry into force of the Electricity Act 13/2007; for previously realised energy capacities, the exercise by holders of authorisations to set up and license holders of rights of use and servitude shall be carried out free of charge, in accordance with the special provisions in force at the time of their entry into service.

Holders of the private property rights affected by energy capacities may claim compensation for damage caused by holders of licenses and license holders, in the exercise of the rights of use and servitude, regardless of the time when energy capacity is realised (previously or after the entry into force of the Electricity Act No. 13/2007).

The provisions of Art. 35 par. (3) and Art. 41 par. (4) of Law no. 13/2007, respectively those of Art. 30 par. (4) and Art. 44 par. (4) of Law no. 123/2012 preclude the holders of the right to private property affected by the transmission or distribution networks existing at the date of entry into force of the law to obtain compensation for inuse from the holder of the right of ownership of the land on which the respective energy capacities are located,

(5) Assets resulting from investments made from own sources or from attracted sources of the transmission system operator during the concession, materialised in the development, modernisation and refurbishment of the electricity transmission network referred to in paragraph 3, shall be part of the State’s public ownership.

(6) The assets referred to in par. (5) shall be considered tangible assets subject to depreciation, unless otherwise provided by law.

(7) By way of derogation from the provisions of sub-item I.14 of the Annex to Law no. 213/1998 on public property, with subsequent amendments and additions, the electricity transmission networks,

made by economic operators that can be certified as transmission and system operators under the provisions of art. 34 par. (2), have the legal regime of private ownership and may connect to the electricity transmission network provided for in paragraph (3), under the public service conditions regulated by ANRE.

Art. 31: Certification of the transmission system operator

(1) Where the transmission grid belonged to a vertically integrated economic operator on 3 September 2009, the transmission system operator managing that electricity network shall be certified as an independent system operator as follows:

- a) ANRE certifies the legal person as regards the fulfilment of the conditions laid down in Article 34(1);
- b) in order to comply with the conditions set out in Art. 34 par. (1), (3) and (4), by Government Decision, drawn up on the proposal of the relevant ministry, the public entity holding, on behalf of the State, the majority shareholder \a economic operators performing production and supply activities, on the one hand, as well as the public entity that holds, on behalf of the State, the majority shareholder in the transmission system operator, on the other;
- c) within 15 days of the adoption of the measures provided for in!it. b), the transmission system operator shall submit to ANRE, with the opinion of the owner of the transmission network, the application for certification accompanied by the supporting documentation regarding the fulfilment of the requirements referred to in Article 34 paragraph (1);
- d) ANRE shall issue a preliminary certification decision not later than 4 months from the date of registration of the transmission system operator's application notified to the European Commission, together with the related documentation;
- e) The procedure for certification of the transmission system operator shall be completed in accordance with Article 3 of Regulation (EC) No 714/2009;
- f) the designation of the transmission system operator as an independent system operator shall be approved by the European Commission following the communication by ANRE of the certified economic operator after the completion of the certification procedure in accordance with point e).

(2) Where an economic operator owns an electricity transmission network, it acts as a transmission system operator. The process of certifying it, respectively those who comply with the provisions of Art. 97 paragraph (4) and falling within the definition of the transmission system operator shall be carried out by ANRE, in compliance with the steps referred to in paragraph (1) letter.

d) and e) and, respectively, the provisions of Art. 34 par. (2).

(3) Together with the certification decision, the competent authority shall be obliged to notify the European Commission of any request for certification of the transmission network owner or transmission system operator, which is controlled by a person or persons from one or more third countries, and any circumstances as a result of which a person or persons from one or more third countries would acquire control of the transmission network or the transmission system operator, where appropriate.

(4) After the expiry of 120 days from the submission of a certification request from a transmission system operator, in the absence of a decision by ANRE, the certification shall be deemed granted. Explicit or tacit certification shall become effective only after it has been notified to the European Commission together with all relevant information relating thereto and the procedure laid down in Article is followed.

Article 3 of Regulation (EC) No714/2009.

(5) The certification decisions of a transmission system operator issued by ANRE shall be published in the Official Gazette of Romania, Part I, and notified to the European Commission.

(6) ANRE shall designate and notify the European Commission of the transmission system operator which owns a transmission network after the closure of the certification procedure in accordance with

paragraphs 2 to 5.

Art. 32: Certification of a transmission system operator that is controlled by third countries

(1) Prior to the certification of a transmission system operator which is controlled by a person or persons from one or more third countries, ANRE shall request an opinion from the European Commission that:

a) that entity complies with the requirements of Article 34(1) and (2);  
b) the granting of certification does not jeopardise the security of energy supply to the European Union.

(2) Within 60 days of the issuance of the opinion by the European Commission, ANRE shall adopt and publish the final decision on certification together with the opinion, taking the utmost account. If the European Commission does not deliver an opinion within two months of receipt of the request or within 120 days if it has requested an additional opinion, it may be considered that there are no objections to the ANRE decision.

(3) If the final decision of ANRE differs from the opinion of the European Commission, the reasons for this decision shall be published.

(4) ANRE shall refuse the certification referred to in paragraph 1 in the following situations:

a) the entity concerned does not meet the requirements laid down in Article 34;  
b) the granting of certification may jeopardise the security of electricity supply in the national or European Union territory. In examining this aspect, ANRE shall take into account:  
(i) the rights and obligations of the European Union vis-à-vis that third country under international law, including any agreement concluded with one or more third countries to which the European Union is a party and in which issues relating to security of energy supply are addressed;  
(ii) the rights and obligations of Romania towards that third country under agreements concluded with that third country in so far as they comply with European law; and  
(iii) other specific elements of the case and the third country concerned.

Art. 33: Reassessment of the certification of the transmission system operator

(1) The transmission system operator shall notify ANRE of any planned transaction which may require a reassessment of its compliance with the requirements of Article 34, as well as any circumstances under which a person or persons from one or more third countries may acquire control over the transmission system or the transmission system operator.

(2) ANRE may decide to reassess the transmission system operator's fulfilment of the requirements referred to in Article 34 paragraphs (1) to (3):

a) ex officio;  
b) following notification by the transmission system operator under the conditions of paragraph 1;  
c) at the European Commission's reasoned request.

Art. 34: Conditions for certification of the transmission system operator (1) Certification of the transmission system operator managing an electricity transmission network as an independent system operator shall be achieved if the following requirements are met:

a) the same person or persons shall not have/are not entitled to:  
(i) exercise, directly or indirectly, control over an economic operator carrying out any of the activities of production or supply and, at the same time, directly or indirectly exercising control or exercising any right over the transmission system operator or a transmission network; or  
(ii) to exercise, directly or indirectly, control over the transmission system operator or a transmission network and, at the same time, directly or indirectly exercise control or exercise any right over an economic operator performing any of the production or supply activities;  
b) the same person or persons are not/are not empowered to appoint members of the supervisory board, board of directors or other bodies legally representing the transmission system operator in the case of a transmission system operator or in the case of a transmission network and also to exercise,

directly or indirectly, control or exercise any right over an economic operator performing any of the production or supply activities;

c) the same person is not entitled to be a member of the supervisory board, the management board or other bodies legally representing the economic operator, both in the case of an economic operator performing any of the production or supply activities, and in the case of an ort transmission system operator in the case of a transmission network;

d) the transmission system operator shall have the financial, technical, physical and human resources to fulfil the obligations laid down in Article 36;

e) the transmission system operator undertakes to comply with a 10-year transmission network development plan approved by the competent authority;

f) The transmission system operator shall be able to comply with its obligations under Regulation (EC) No 714/2009, including cooperation with other transmission system operators at European and regional level;

g) the owner of the transport network shall comply with the requirements laid down in Article 37.

(2) The certification of the transmission system operator that owns a transmission network shall be carried out if the following requirements are met:

a) the same person or persons shall not have/are not entitled to:

(i) to exercise, directly or indirectly, control over an economic operator carrying out any of the activities of production or supply and at the same time to exercise, directly or indirectly, the control or exercise of any right over the transmission operator or a transmission network; or

(ii) to exercise, directly or indirectly, control over the transmission system operator or a transmission network and, directly or indirectly, exercise control or exercise any right over an economic operator performing any of the production or supply activities;

b) the same person or persons are not/are not empowered to appoint members of the supervisory board, board of directors or other bodies legally representing the transmission system operator, in the case of a transmission system operator or in the case of a transmission network, and also to exercise, directly or indirectly, control or exercise any right over an economic operator performing any of the production or supply activities;

c) the same person shall not be entitled to be a member of the supervisory board, the management board or other bodies legally representing the economic operator, both in the case of an economic operator performing any of the production or supply activities, and in the case of a transmission system operator or a transmission network.

(3) The rights referred to in paragraph 1 (a) and (b) and respectively in paragraph 2 (a) and (b) shall include, in particular:

(i) the power to exercise voting rights;

(ii) the power to appoint members of the Board of Supervisors, the Management Board or other bodies legally representing the economic operator; or

(iii) holding a majority share.

(4) For the purposes of paragraphs 1 (a) and 2 (a) respectively, the term “economic operator performing energy production or supply” shall also include gas production and supply activities, and the terms ‘transmission system operator’ and ‘transmission network’ shall also include terms which are used in the same sense in the natural gas sector.

(5) Where two different public bodies exercise control, on the one hand, over a transmission system operator or a transmission network and, on the other hand, an economic operator carrying out any of the activities of production or supply, the two bodies shall be deemed not to be the same person or persons if the separation criteria referred to in paragraphs 1 or 2 are met, as the case may be.

(6) Any transmission system operator certified on the territory of Romania under the terms of the law may be part of a joint venture consisting of 2 or more economic operators with transmission networks



and acting as a transmission system operator in two or more Member States for the transmission systems concerned.

Art. 35: Development plans

(1) The transmission system operator is required to develop 10-year investment and development plans for the transmission network, in line with the state of play and future evolution of energy consumption and sources, including energy imports and exports.

(2) The development plans referred to in paragraph 1 shall contain the modalities for financing and carrying out investments relating to transport networks, taking into account also the planning and systematisation of the territory covered by them, subject to compliance with the rules on environmental protection.

(3) The plans referred to in paragraph (1) shall be approved by ANRE.

Art. 36: Obligations of the transmission system operator

(1) The transmission system operator shall provide the public transmission service to all users of the transmission grid under non-discriminatory conditions, ensuring the same tariff to any applicant under the law and in particular avoiding discrimination in favour of related economic operators, in compliance with the rules and performances laid down in the technical regulations in force

(2) The transmission system operator may participate in the trading of electricity only in the following situations:

- a) to cover consumption on its own electricity grids and in its places of consumption;
- b) to maintain the production-consumption balance, by selling/purchase operations in the balancing market or by selling and buying with other carriers from neighbouring countries, in accordance with the regulations in force and the rules of ENTSO-E.
- c) to ensure the coupling mechanisms of the electricity markets to which Romania is a party;
- d) to compensate for unplanned exchanges with neighboring power systems.

(3) The transmission system operator may carry out operations for the sale-purchase of technological system services with the transmission system operators of countries with which Romania has concluded agreements facilitating the creation and development of regional markets, with manufacturers or customers, in accordance with the regulations issued by the competent authority.

(4) Transactions in electricity and system technology services shall be carried out on the basis of transparent and non-discriminatory procedures, through competitive mechanisms, in accordance with the rules of the competent authority.

(5) The transmission system operator shall provide the system service under non-discriminatory conditions to all SEN users, ensuring operational management in order to achieve safe operation, stability of frequency and voltage, continuity in customer supply and coordination of electricity exchanges with other power systems.

(6) The transmission system operator may hold shares in companies established in the territory of the national or other States, having as its main object the allocation of interconnection capacities and the verification of network safety at regional level, covering the territory of two or more States.

(7) The transmission system operator shall mainly carry out the following activities:

- a) ensure the long-term ability of the transmission network to meet reasonable demands for electricity transmission and exploits, maintains, rehabilitates and develops the transmission network under economic conditions to ensure its safety, reliability and efficiency, in compliance with environmental rules;
- b) ensures adequate means for the fulfilment of public service obligations;
- c) contribute to the achievement of safety in electricity supply by ensuring adequate transmission capacities and maintaining their reliability;
- d) ensure the management of energy flows in the transmission network, taking into account energy exchanges with other interconnected systems;

- e) acquires fast and slow system technological, primary, secondary and tertiary deregulation services and qualifies dispatchable manufacturers and customers providing technological system services, on the basis of their own procedure, approved by the competent authority;
- f) exchange information with other interconnected transmission system operators and other energy economic operators, in compliance with ENTSO-E regulations on information exchange protocols, reports, structure and procedures for access to databases;
- g) Ensure the allocation of interconnection capacities, collect congestion-management revenues and make payments under the inter-transmission system operator compensation mechanism in accordance with Article 13 of Regulation (EC) No 714/2009, granting and managing third party access and providing reasoned explanations when refusing such access, without abuse, in the case of sale or purchase of electricity by related economic operators, commercially sensitive information obtained from third parties under the surveillance of the network under the access to the network;
- h) operates, maintains and develops facilities for measuring and metering the transfer of electricity through the transmission grids and at the interface with the users of its transmission networks, IT and telecommunications facilities in the SEN transmission networks;
- i) analyse and endorse the fulfilment of the technical conditions for connection by the users of the transmission grids in accordance with the provisions of the technical regulations in force;
- j) ensure the transmission of the results of the electricity measurements to the electricity market operator with a view to the settlement of transactions in the balancing market and imbalances of the parties responsible for balancing, as well as the access of recipients of the transmission service for verification of measurement groups;
- k) carry out the operational planning and operational management of the SEN at central and territorial level on the basis of its own forecast, in accordance with existing legal regulations, prioritising generation facilities using renewable energy sources or producing electricity in high-efficiency cogeneration, insofar as the safe operation of the national electricity grid allows;
- l) authorises staff carrying out operational management in accordance with the regulations in force;
- m) collect, record and archive statistical data on the functioning of the SEN;
- n) develop and submit to the approval of the competent authority the technical rules and the specific regulations necessary for the performance of operational driving, in consultation with participants in the electricity market;
- o) elaborate, under the law, the plan to defend the SEN against major disturbances;
- p) develop studies, programmes and work on the development of the SEN;
- q) develop and submit to the approval of the competent authority the rules on congestion management, including interconnection capacities, as well as the rules for awarding interconnection capacities;
- r) organises and manages the electricity balancing market.
- s) prevents discriminatory transfer of commercially sensitive information.

(7x) The certified transmission system operator as an independent system operator shall be responsible for the operation, maintenance and development of the transmission network and for ensuring its long-term ability to address reasonable demands through investment planning. As regards the development of the transmission network, the independent system operator shall be responsible for planning, including the authorisation procedure, construction and commissioning of the new infrastructure.

(8) In the event of major damage jeopardising the safety of the SEN operation, the transmission system operator may, for a limited period, have the use of the water supply outside the storage schedules, with the obligation to notify the competent authorities in water management.

(9) Restrictions on the supply of electricity in emergency situations shall comply with predefined criteria for the management of imbalances by the transmission system operator. Any safety measure

must also be taken in close cooperation with the other transmission system operators involved, in compliance with applicable bilateral contracts, including information exchange agreements.

(10) The transmission system operator shall publish the information relating to its activities necessary for network users, in accordance with the ANRE regulations, in order to ensure efficient network access, effective competition and efficient functioning of the energy market, shall preserve the confidentiality of commercially sensitive information they have obtained in the course of their business, including those obtained from third parties in the context of granting or negotiating access to the network, and shall not disclose any commercially sensitive information to the other parts of the business, including those obtained from third parties in the context of granting or negotiating access to the network, and shall not disclose any commercially sensitive information to the other parts of the business which is required for the business to be entered into.

(11) Costs for the modification of electricity transmission installations as a result of the connection of new users or the change in the initial energy characteristics of existing users, including the release of sites, shall be borne in accordance with the regulations in force.

(12) The transmission system operator shall allocate interconnection capacities on one or more borders with other economic operators, including those registered in the territory of a Member State of the European Union or the Energy Community Treaty, under the terms of signing a Memorandum of Understanding between the Parties approved by ANRE.

(13) The designated transmission system operator shall develop and submit to ANRE, for approval and publication, specifications, characteristics and technical safety criteria, as well as technical standards setting out the minimum requirements for design and operation of equipment that connects to the energy system, in compliance with applicable European legislation. These rules shall ensure the interoperability of the systems and shall be objective and non-discriminatory. Before being approved by ANRE, these rules shall be notified to the European Commission, in accordance with the provisions of Government Decision no. 1.016/2004 on measures for the organisation and exchange of information in the field of technical standards and regulations, as well as the rules on information society services between Romania and the Member States of the European Union, as well as the European Commission, as amended and supplemented.

(14) The transmission system operator is obliged to publish all costs related to the operation, maintenance and development of networks, in accordance with ANRE regulations.

Art. 37: Tasks of the transmission network owner in the case of transmission system operators operating an electricity transmission network

(1) In the case of transmission system operators operating an electricity transmission network, the transmission network owner shall:

- a) cooperate with the transmission system operator in order to carry out its tasks by providing all relevant information to the transmission system operator as well as to ANRE, which monitors the exchange of information between the transmission system operator and the owner;
- b) finances and/or agrees on the method of financing investments in the transmission grid established by the transmission system operator and approved in advance by ANRE, which is obliged to conduct consultations with it and with other interested parties;
- c) has responsibility for the assets of the transmission network, with the exception of responsibility for the transmission system operator's tasks;
- d) provide guarantees to facilitate the financing of any network expansions, with the exception of the investments for which it has given its consent to be financed by any interested party, including the transmission system operator, as provided for in point b).

(2) The Competition Council, in close cooperation with ANRE, shall be empowered with the necessary powers to effectively monitor the compliance of the transmission network owner with its

obligations pursuant to paragraph 1.

(3) The transmission network owner is not responsible for granting and managing third party access or planning investments in the transmission network.

Art. 38: Separation of the owner of the transport network

(1) Where the transmission network owner is part of a vertically integrated economic operator, the transmission network owner shall be independent at least in terms of its legal status, organisation and decision-making from other activities not related to the transmission of electricity.

(2) In order to ensure the independence of the transmission network owner under the conditions of paragraph 1, the following minimum criteria shall apply:

a) persons in the management of the transmission network owner may not be part of the structures of the integrated economic operator in the field of electricity responsible, directly or indirectly, for the day-to-day management of electricity generation, distribution and supply activities;

b) the managers of the transmission network owner shall act independently of any market interest in carrying out their duties;

c) the transmission network owner shall establish a compliance programme containing the measures taken to ensure that discriminatory practices are excluded and shall also set out the specific obligations imposed on employees to achieve the independence objective;

d) the transmission network owner shall designate a person or body, named/appointed Compliance Agent, to ensure adequate monitoring of compliance with the compliance programme and to submit to ANRE in December of each year a report on the measures taken, to be published on the website of the transmission system operator.

e) the transmission network owner and the transmission system operator, i.e. the remaining part of the economic operator referred to in paragraph 1, shall not use common services, except for purely administrative or IT services;

f) the transmission network owner shall maintain the confidentiality of commercially sensitive information which he has obtained in the course of his activities, prevents its discriminatory transfer and shall not disclose any commercially sensitive information to the other parts of the economic operator unless necessary for the conclusion of a commercial transaction.

(3) The transmission network owners shall submit to ANRE for approval all draft contracts to be concluded with the transmission system operator, including those related to the use of existing goods, as well as those made as a result of investments in the transmission network.

Art. 39: Reporting of physical flows of electricity

The transmission system operator is obliged, according to ANRE regulations, to draw up, from 3 months to 3 months, a report on the physical flows of electricity that took place within imports of electricity from third countries to the European Union during the last 3 months prior to the reporting date, which is transmitted to ANRE and the relevant ministry, in order to inform the European Commission.

Art. 40: Prohibitions on control of transmission system operators

Economic operators carrying out any of the activities of electricity generation or supply shall be prohibited, directly or indirectly, from exercising control or exercising any right in respect of separate transmission system operators from other States of the European Union applying the provisions of Article 9(1) of Directive 2009/72/EC.

Art. 41: Prohibitions on staff of the transmission system operator

(1) The transmission system operator which has been part of a vertically integrated economic operator and its staff shall be prohibited from transferring commercially sensitive information to any economic operators in the electricity sector performing production or supply activities.

(2) Persons exercising relevant functions within the transmission system operator under which they have had access to sensitive commercial information shall be required to maintain their confidentiality

and cannot hold similar functions within economic operators in the field of electricity generation and/or supply, for a period of at least 2 years from the date of termination of the contractual relations with the transmission system operator, in accordance with the terms laid down and regulated in the individual employment contract.

#### Art. 42: Prohibitions

For the protection of transport installations, natural or legal persons shall be prohibited:

- a) perform constructions of any kind in the security zone of the transmission power grids without the authorisation of the transmission system operator's location and/or without compliance with the conditions/limitations provided for therein;
- b) carry out excavations of any kind or set up plantations or forest vegetation in the safety zone of the transmission grids without the consent of the transmission system operator;
- c) store materials on the passageways and in the protection and safety zones of installations without the consent of the transmission system operator;
- d) to throw objects of any kind on or otherwise interfere with the transmission grids;
- e) damage the construction, enclosures or identification and warning inscriptions related to transport facilities;
- f) limit or restrict access to the transmission system operator to installations by enclosure, construction or any other way.

#### Art. 43: Electricity market operator

(1) The operator of the centralised electricity market shall be the licensed legal person responsible for the organisation and administration of centralised electricity markets, with the exception of the balancing market, for short, medium and long-term electricity trading in accordance with the regulations issued by the competent authority.

(2) The electricity market operator shall not be permitted to disclose information relating to its electricity transactions obtained in the course of its business other than under the law.

(3) The prices and quantities established following transactions carried out on all centralised electricity markets, including contracts on the regulated or export market, shall be made public in accordance with the ANRE regulations.

#### Art. 44: Distribution of electricity

(1) The distribution of electricity shall be carried out by the distribution operator, legal entity, license holder or exempt from licensing in accordance with the provisions of Article 10 (42).

(2) Distribution operators shall provide services to all users of distribution networks under non-discriminatory conditions, ensuring access to them to any applicant meeting the requirements of this Law, in compliance with the performance rules and standards laid down in the technical regulations in force.

(3) Distribution grids shall be delimited from generation installations or transmission electricity networks and end-users at the property demarcation points.

(4) The land on which the distribution grids exist at the entry into force of this law are and remain in public ownership of the state.

In the unitary interpretation and application of the provisions of Article 16(2), (3), (5), (6), (7), (9), (10), Article 19(3), Article 20(3), Article 35(3) and Article 41(4) of the Electricity Law No 13/2007, with subsequent amendments and additions, respectively to the provisions of Article 12(2), (3), (5), (5), (3), (Higher) and (Higher).

The holders of the private property rights affected by energy capacities may claim compensation for non-use only to the extent that the energy capacities have been achieved after the entry into force of the Electricity Act 13/2007; for previously realised energy capacities, the exercise by holders of authorisations to set up and license holders of rights of use and servitude shall be carried out free of

charge, in accordance with the special provisions in force at the time of their entry into service. Holders of the private property rights affected by energy capacities may claim compensation for damage caused by holders of licenses and license holders, in the exercise of the rights of use and servitude, regardless of the time when energy capacity is realised (previously or after the entry into force of the Electricity Act No. 13/2007).

The provisions of Art. 35 par. (3) and Art. 41 par. (4) of Law no. 13/2007, respectively those of Art. 30 par. (4) and Art. 44 par. (4) of Law no. 123/2012 preclude the holders of the right to private property affected by the transmission or distribution networks existing at the date of entry into force of the law to obtain compensation for inuse from the holder of the right of ownership of the land on which the respective energy capacities are located,

(5) The land for which the licensed owner has acquired ownership under the terms of the law shall be exempted from the provisions of par. (4).

(6) Distribution grids are developed on the basis of principles of economic efficiency, respecting urban planning, ownership, environmental protection, people's health and life and energy saving, according to the technical and safety regulations in force.

(7) Costs for the modification of electricity distribution installations as a result of the connection of new users or the change in the initial energy characteristics of existing users, including the release of sites, shall be borne in accordance with the regulations issued by the competent authority, on the basis of objective criteria.

(8) If the expenses referred to in paragraph 7 are borne by the customer, the resulting energy capacities shall be taken over by the compensation distribution operator, according to a methodology approved by ANRE, within 60 days from the date of entry into force of this Law.

(9) Until the date of entry into force of the regulations issued by the competent authority, the costs of modifying the installations shall be borne by the person causing the modification.

(10) The distribution operator shall be obliged to provide a solution for networking of all applicants and to communicate the conditions of connection in accordance with the regulations in force.

Art. 441: Nature of distribution activity

The activity of electricity distribution, with the exception of that carried out through closed distribution systems, constitutes a public service of general interest.

Art. 45: Distribution operator

(1) The distribution operator shall have the following main tasks:

a) operates, refurbishes, rehabilitates and develops distribution grids, in compliance with the technical regulations in force, under economic conditions, as well as in compliance with environmental legislation and the promotion of energy efficiency, so as to ensure the long-term capacity to meet reasonable demands for connection to the distribution network;

b) ensure the transit of electricity through the distribution grids, at the request and with the information to the transmission system operator, for those areas of the country where there is insufficient capacity through the transmission networks, for the discharge of power from power plants, including cogeneration power plants, for connection to the electricity system of a neighbouring country, provided that there is a bilateral agreement to that effect, in the case of incidences in the NES and the execution of operating and maintenance works or of new works on the temporary transmission networks;

c) develop and modernise the distribution networks, in consultation, where appropriate, with the transmission system operator, on the basis of forward-looking studies carried out over a minimum of 5 years, so that the distribution network is safe, reliable and efficient; prospective studies shall be submitted to ANRE at least 6 months before the start of a regulatory period;

d) ensure operational management in accordance with the distribution licence, giving priority to

dispatching installations using renewable energy sources or those producing electricity in high-efficiency cogeneration, insofar as the safe operation of the national electricity grid so permits;

e) disseminate, on a non-discriminatory basis, the information relating to its activities necessary for network users and it is not permitted to disclose confidential commercial information obtained in the course of its activity;

f) subject to the approval of the transmission system operator the programme of repairs and maintenance planned in installations with a nominal line voltage of 110 kV;

g) monitor the operational safety of the electrical distribution networks as well as the performance indicators of the distribution service.

(2) For the purpose of carrying out the tasks referred to in paragraph 1, the distribution operator may interrupt the operation of the installations for the time strictly necessary for the planned maintenance and repair work, with prior notification to users of the distribution network.

(3) The distribution system operator may participate in the wholesale electricity market only for transactions necessary to cover its own technology consumption of distribution networks and for its own places of consumption on the basis of transparent and non-discriminatory procedures, in compliance with the competitive mechanisms approved by the competent authority.

(4) The tasks relating to the development of the distribution system referred to in paragraph 1(a) to (c) shall not apply to the operator of a closed distribution system.

(5) The distribution system operator is required to carry out the works of realisation/rehabilitation/rehabilitation/modernisation of electricity networks in order to increase the quality level of the electricity distribution service. To this end and for the adoption of as efficient technical solutions as possible, technical equipment may be located in the public domain, in intravilane areas in underground or above-ground construction variants, without affecting public circulation, in compliance with the applicable technical regulations and the standardised technical conditions in force for the location of the building networks.

(6) The situations existing on the date of entry into force of this Law, contrary to the provisions of par. (5), shall be resolved by the distribution operator within 60 days from the date of receipt of a request for this purpose from the entitled persons.

Art. 46: Obligations of the distribution network owner

(1) Any person who owns or in use owns an electrical distribution network at the time of entry into force of this Law shall be obliged to ensure access to the network, in accordance with the regulations of the competent authority.

(2) Where the holder of the electricity distribution network is unable to provide the distribution service or to grant the required power increase for users connected to that network, it shall be required to deliver the network into service free of charge within 15 days from the date of finding that the distribution service is unable to provide the distribution service or to grant the required power increase until it is legally taken over to the concession operator, the licensed distribution operator in the area in which the latter is supplied, and the users in which the latter has the obligation to provide the network. 2x) In the situation referred to in paragraph 2 where ownership of the electricity distribution network cannot be proved, the concessionaire operator, licensed in the area where the power grid is located, shall be required to provide the distribution service to its users, pending the identification of the owner of the network concerned.

22. Where<sup>the</sup>holder of a distribution network located in the concession area of a concession operator intends to dispose of the distribution network or in the situation referred to in paragraph 2, he shall make a sale offer to the concessionaire distribution operator at a justified value certified by an independent authorised expert and the concessionary distribution operator is obliged to purchase it within 120 days of the date of communication of the certified purchase value.

(3) Where the distribution network is not owned by the distribution system operator, the distribution network owner shall have the following obligations:

- a) cooperate with the distribution operator with a view to carrying out its tasks by providing it with all relevant information;
- b) cooperate with ANRE and the distribution operator in establishing investments in the distribution network, how to finance them, as well as the transfer of the distribution service to another licensed distribution operator;
- c) has responsibility for the assets of the distribution network, with the exception of responsibility for the tasks of the distribution operator;
- d) facilitate the financing of any network extensions, except for the investments for which it has given its consent to be financed by any interested party, including the distribution operator.

Art. 47: Limitation or interruption of supply

(1) The distribution operator shall be entitled to discontinue the power supply in the following situations:

- a) when life, human health, or the integrity of material goods are endangered;
  - b) to prevent or limit the extent of damage to energy equipment, electrical grid areas or the entire NES;
  - c) for manoeuvres or works which cannot be performed without interruption.
  - d) in the case of absconding of electricity; the measure of interruption in the supply of electricity will be taken after taking the necessary samples and evidence immediately if there is no supply contract concluded with a supplier at the place of consumption or after a final court decision is given where there is a supply contract with a supplier at the place of consumption.
- (2) The distribution operator shall be obliged to notify the users affected by the planned interruptions or their suppliers in the manner established by the contracts and to communicate the planned duration of interruptions necessary for the execution of maintenance and repair work.
- (3) The distribution system operator shall be liable for the damage caused to users at fault.
- (4) The supply regulation sets out the conditions under which, in exceptional circumstances, the supply of electricity to final customers may be limited or interrupted.

(5) For the situations referred to in paragraph 1, the distribution system operator shall not act to interrupt the supply of electricity to final customers on a voluntary basis before taking all the necessary technical measures to prevent the life and health of natural persons from being endangered, to protect the environment and to ensure the integrity of material property, in compliance with the rules in force.

Art. 48: Separation of distribution and supply activities

(1) Where the distribution operator is part of a vertically integrated economic operator, it shall be independent, at least in terms of its legal form, organisation and decision-making, in relation to other activities not related to distribution. This rule does not create an obligation to separate ownership of the assets of the distribution operator from the vertically integrated economic operator.

(2) In addition to the requirements laid down in paragraph 1, where the distribution operator is part of a vertically integrated economic operator, it shall be independent in its organisation and decision-making in relation to other activities not related to distribution. To this end, the following minimum criteria shall be applied:

- a) the persons responsible for the management of the distribution operator may not participate in the structures of the vertically integrated economic operator responsible directly or indirectly for the day-to-day operation of electricity generation, transmission or supply activities;
- b) appropriate measures must be taken to ensure that the professional interests of the persons responsible for the management of the distribution operator are taken into account in such a way as to ensure their independence from action;
- c) the distribution system operator has the right to take effective decisions independently of the



vertically integrated economic operator concerning the assets necessary for the operation, maintenance or development of the network. It shall be prohibited for the parent company to give any instructions on distribution activity or to take individual decisions concerning the construction or rehabilitation of distribution power capacities. The distribution system operator shall not exceed the conditions laid down in the approved financial plan and shall not prejudice the rights of the parent undertaking to economic supervision and to supervise the profitability of a subsidiary's assets, the right to approve the annual financial plan or any equivalent instrument, and the right to set the general limits of the level of indebtedness of its subsidiary. The distribution operator is obliged to publish all costs related to the operation, maintenance and development of the network, in accordance with ANRE regulations;

d) the distribution operator shall establish a compliance programme, which shall contain the measures taken to ensure that discriminatory practices are excluded and shall also set out the specific obligations imposed on employees to achieve the independence objective;

e) the distribution operator shall designate a person or body, designated/appointed compliance agent, to ensure adequate monitoring of compliance with the compliance programme and who submits a report to ANRE in December of each year on the measures taken to be published on the distribution operator's website. The compliance agent of the distribution operator shall be completely independent and shall have access to all information of the distribution operator or of any related economic operator that is necessary for the performance of its tasks.

(3) Vertically integrated economic operators providing services to less than 100,000 connected customers or serving small, isolated systems shall not be required to implement the measures referred to in paragraphs 1 and 2.

(4) The distribution operator shall be obliged to maintain the confidentiality of commercial information obtained in the course of its business.

(5) The distribution system operator is obliged to prevent discriminatory disclosure of information on its own activity, which can be commercially advantageous.

(6) In order to fulfil the obligations referred to in paragraph 2(c), the distribution system operator must have at its disposal the necessary resources, including human, technical and financial resources.

(7) In carrying out its economic activity, including communication and advertising, the distribution operator shall be obliged not to create confusion as to the separate identity from the economic operator performing the electricity supply service of the vertically integrated economic operator.

(8) ANRE shall monitor the activity of the distribution operator which is part of a vertically integrated economic operator, taking measures to avoid or eliminate any practices that distort competition.

#### Art. 49: Prohibitions

(1) In order to protect distribution networks, natural and legal persons shall be prohibited:

a) perform constructions of any kind in the safety zone of the electrical distribution networks without the approval of the distribution operator's location and/or without compliance with the conditioning/limitations provided for therein;

b) carry out excavations of any kind or set up plantations or forest vegetation in the safety zone of the electrical distribution networks without the agreement of the distribution operator;

c) store materials on the passageway and in the safety and safety zones of the installations without the agreement of the distribution operator;

d) to throw objects of any kind on, or otherwise interfere with, distribution networks;

e) damage the construction, enclosures or identification and warning inscriptions related to the electrical distribution networks;

f) limit or restrict access to installations of the distribution operator by enclosure, construction or any other way

(2) Where the distribution operator finds that actions or facts of the nature of those referred to in paragraph 1 exist, it shall be entitled to take all necessary measures to restore or correct the initial factual situation.

#### Art. 50: Closed distribution system

(1) Closed distribution system shall be the system by which electricity is distributed in a geographically limited industrial, commercial or common service area and which, without prejudice to paragraph 4, does not supply household customers if:

a) for specific technical or security reasons, the activities or production process carried out by the users of that system are integrated; or

b) that system distributes electricity, mainly to the owner of the distribution system, to its operator or to the economic operators affiliated to them.

(2) The operator of a closed distribution system shall not apply to:

a) the obligation to purchase the electricity required to cover its own technological consumption on the basis of transparent, non-discriminatory procedures under Article 36(4);

b) the obligation that the network connection charges or the methodologies underlying their calculation are approved before their entry into force.

(3) The prices for the distribution service in a closed distribution system or the methodologies underlying their calculation may also be approved and reviewed by ANRE, at the request of a closed distribution system user.

(4) Paragraph 2 shall also apply where domestic customers are placed in the area served by a closed distribution system only if their annual consumption is less than 5 % of the annual consumption of the closed system and if they are in an employment relationship or in a form of association with the owner of the distribution system.

(5) At the request of an economic operator, ANRE shall confirm by decision the enclosure of a closed distribution system in accordance with the provisions of paragraph (1).

(6) Economic operators operating closed distribution systems falling within the provisions of paragraph 1 shall be entitled to provide the distribution service without a licence on the basis of the decision referred to in paragraph.

(5).

#### Art. 51: Electrification of localities and extension of electricity distribution networks

(1) In the performance of the concession contract, at the request of local or central public administration authorities, based on regional development and urban planning plans, the distribution operator shall be obliged to ensure the development and financing of the distribution network for electrification of localities or for the extension of distribution networks in the area covered by the concession contract, respectively by the licence.

(2) Where the investments under paragraph 1 are not economically justified for the distribution operator, they shall be effected by co-financing by the distribution operator's own funds, local budget funds and state budgets under the law, as well as from the funds of natural and legal persons who have requested the connection to the network in that area, in accordance with the ANRE regulations.

(3) The assessment of the conditions for financing investments referred to in paragraphs 1 and 2 shall be determined by the distribution operator, based on a feasibility study carried out within 60 days of receipt of the request, according to a methodology approved by ANRE.

(3x) The distribution operator shall be obliged to repay the amount invested by the applicant in accordance with the provisions of paragraph (2), within the limit of the economic efficiency of the investment, in accordance with the regulations adopted by ANRE.

(32) The distribution operator shall ensure the financing and execution of the design and execution of the installation for the connection of the non-household final customer, the length of which will be up to 2.500 meters in the territory of the administrative-territorial unit for which the public distribution

service concession, the consideration of which will be recognised in the tariff by ANRE. The deadline for the connection is not more than 90 days from the date of obtaining the building permit.

(33) The applicant, the future non-household final customer, is obliged to use the place of consumption and keep its destination for a period of 5 years from the date of putting into service of the connection installation.

(34) If the non-household final customer does not comply with the provisions of <sup>paragraph</sup>33, he shall be obliged to return to the distribution operator the value of the design and execution of the connection installation, in proportion to the remaining unused period, in accordance with the regulations adopted by ANRE.

(4) In order to develop programs for electrification of localities and to extend electricity distribution networks, local government authorities and ministries concerned will respond within 60 days of receiving requests from the transmission system operator and distribution operators for the implementation of medium and long-term network development plans.

(5) Localities which, for technical or economic reasons, are not connected to the SEN may be powered by isolated electricity systems, taking into account also locally available renewable energy resources.

(6) The sale price of electricity shall be determined by ANRE on the basis of the costs justified by the economic operator providing the service, also taking into account a reasonable profit rate.

#### Art. 52: Electricity supply

(1) Electricity supply is the activity by which the licensed legal entity sells electricity to customers. A contract shall be concluded for the supply of electricity to customers in accordance with the legal provisions in force.

(2) The electricity supplied to the customer shall be invoiced by the supplier, according to the ANRE regulations and the legal provisions in force.

(3) The consumption and supply of electricity without the conclusion of the supply contract shall be prohibited, except for situations which are distinctly regulated by the competent authority.

#### Art. 53: Obligations of the supplier of last resort

(1) The supplier of last resort shall be obliged to provide universal service to customers referred to in Article 55 (1) lett. b).

(2) The supplier of last resort shall be required to supply electricity to final customers whose supplier is in a position to withdraw the supply licence in the course of business or in any other situation identified by the competent authority in which the final customers have not ensured the supply of electricity from any other source, except for disconnected or unpaid customers in accordance with the regulations issued by the competent authority.

#### Art. 54: Designation of suppliers of last resort

Suppliers of last resort shall be designated by ANRE from existing suppliers on the energy market, through competitive mechanisms, on the basis of a regulation setting out the modalities and criteria for their selection, for each category of final customers they serve.

#### Art. 55: Customers of suppliers of last resort

(1) Suppliers of last resort shall be obliged to ensure the supply of electricity, at reasonable quality conditions and at reasonable prices, transparent, easily comparable and non-discriminatory in accordance with the regulations of ANRE, in compliance with the provisions of Article 22(1) and (11) of the following categories of customers:

a) final customers who, on the date of entry into force of this Law, have not exercised their right to eligibility;

b) household customers and non-household customers with average scriptic employee numbers of less than 50 and an annual turnover or total value of assets on the annual balance sheet not exceeding EUR 10 million

(2) The identification of non-household final customers who meet the conditions referred to in paragraph 1 (b) shall be carried out by the suppliers of last resort, on the basis of the documents provided for by the specific legislation, transmitted by customers to the suppliers of last resort. The deadline for completing their identification shall be no later than 12 months from the date of entry into force of this Law.

(3) After completion of the identification process, the non-household final customers referred to in paragraph 2 shall be required to forward, every 2 years, the documents referred to in paragraph 2 to the supplier of last resort.

Art. 56: Transition of final customers to the supplier of last resort

(1) The transfer of a customer in one of the situations referred to in Article 53 (2) to the supplier of last resort shall be made in accordance with the rules issued by the competent authority, without the need to sign a supply contract.

(2) In the event of switching to the supplier of last resort under the terms of Article 53(2), the network operator to which the place of consumption is connected shall ensure continuity in its electricity supply, and the electricity and services related to the supply under these conditions shall be borne through the supplier of last resort.

(3) The supply of electricity by the supplier of last resort shall be made at tariffs/prices approved under the terms of the regulations issued by the competent authority.

Art. 57: Obligations of the supplier

(1) The supplier/distribution operator shall inform the final customers, both through the single contact points and the website, in accordance with the ANRE regulations, as well as through the invoice or documents attached thereto, as well as through promotional materials, about their rights, the legislation in force and the dispute settlement procedures in case of applications, complaints, complaints, complaints or appeals.

(1x) The single contact point consists of a central point coordinating regional/local information points, which are easily accessible and located at a distance of maximum 50 km from the places of consumption of final customers benefiting from universal service, and providing them with information free of charge.

(2) The supplier shall make available to household customers more than one means of paying for the energy provided and allow them to opt for either.

(3) The supplier shall be obliged to ensure the labelling of electricity in accordance with the regulations of the competent authority and to regularly inform final customers of the structure, provenance, characteristics and environmental impact of the electricity supplied to them.

(4) The supplier is obliged to participate in activities ensuring the safety and security of the SEN.

(5) The supplier shall provide consumers with consumption data in an optional, comprehensible and harmonised format at national level, in accordance with the regulations issued by the competent authority.

(6) The supplier is obliged to purchase electricity in such a way as to ensure the coverage of its customers' consumption, as a priority for the beneficiaries of the universal service in its own portfolio.

(7) The Fumiser is obliged not to use incorrect or misleading commercial practices in relation to the final customer.

Art. 58: Contracting obligation

(1) At the written request of a final customer, the supplier shall be obliged to communicate, in writing, within a period of not more than 15 working days, a tender on fair conditions for the supply of electricity, which must contain the supply price, the terms of payment and the closing date for the conclusion of the supply contract, drawn up in accordance with the regulations issued by the competent authority.

The supplier does not have the right to unilaterally terminate electricity supply contracts concluded with final customers.

(2) Without prejudice to Law no. 193/2000 on unfair terms in contracts concluded between professionals and consumers, republished, with subsequent amendments and supplements and Government Emergency Ordinance no. 34/2014 on consumer rights in contracts concluded with professionals, as well as for amending and supplementing certain normative acts, the supply contract negotiated and concluded under the provisions of paragraph (1) shall be valid for an indefinite period or for a period agreed by the parties and shall contain at least the following elements:

- a) the identity and address of the supplier;
- b) the prices/tariffs and services offered, the level of quality of the services offered, as well as the time required for the initial connection, as appropriate;
- c) the types of maintenance services provided, where appropriate;
- d) the means by which up-to-date information can be obtained on all applicable prices/tariffs, including maintenance, as appropriate;
- e) the duration of the contract, the conditions for renewal and interruption of services and the contract and whether there is a right to terminate the contract at no cost;
- f) any compensation and the method of reimbursement applicable if the quality of the services provided for in the contract is not met, including in the case of inaccurate and delayed invoicing;
- g) the modalities for the initiation of dispute resolution procedures, h in accordance with the provisions of Art.

Article 57 (1) and Article 62(1)<sup>lett. h6</sup>;

h) information on customer rights, including the handling of complaints and all information referred to in points a) to g), clearly communicated in invoices or websites of electricity operators.

(3) The final customer has the right to unilaterally terminate the supply contract, with notification to the electricity supplier at least 21 days in advance, subject to contractual conditions.

(4) The supplier shall be entitled to terminate the contract in the following cases:

- a) the circumvention of electricity established by final judicial decision;
- b) non-payment of invoices;
- c) other situations provided for in the legislation in force.

(5) The supplier is entitled to require a final customer to provide financial guarantees for a period of consumption equivalent to a maximum of one year in case of finding, according to the legal provisions in force, of actions designed to distort in any way the indications of the measuring equipment or to circumvent electricity by bypassing its measuring equipment. The method of providing financial guarantees is provided in the framework contracts for the supply of electricity and/or in other regulations issued by ANRE.

(6) The refusal to lodge the security referred to in paragraph 5 shall give the right to the supplier to require the distribution operator to disconnect the final customer from the network.

Art. 59: Payment of energy supplied

In accordance with the provisions of the contract, the final customer is obliged to pay the value of the electricity consumed at the price and under the conditions laid down in the electricity supply contract.

Art. 60: Supplier's liability

(1) The supplier shall be liable for all damages to the final customer at fault under the conditions laid down in the supply contract.

(2) The supplier shall be entitled to recover the damage caused respectively to the final customers and the supplier itself from the distribution system operator, the transmission system operator or the manufacturer, proven to be caused by fault of any of them.

Art. 61: Obligations of the final electricity customer

(1) The final customer of electricity shall be liable for the proven damage caused to its fault

provider/network operator.

(2) Failure to comply with the contract for the supply of electricity by the final customer may entail the following consequences, as appropriate:

- a) penalties;
- b) temporary cessation of electricity supply;
- c) termination of the electricity supply contract.

(3) In case of interference on electrical installations by unauthorised persons, the network operator is entitled to discontinue the power supply, in accordance with the specific regulations of ANRE.

(4) In case, according to the legal provisions in force, of actions designed to distort in any way the indications of the measuring equipment or to circumvent electricity by bypassing the measuring equipment, the final customer shall be obliged to provide a financial guarantee, as provided for in Article 58(5).

(5) The final electricity customer with a power approved by the technical approval of the connection of at least 1.000 kVA shall be obliged to submit hourly consumption forecasts to the supplier with which it has contractual relations, according to the regulations issued by the competent authority.

(6) Final customers are required to pay the value of the electricity bills and the services they receive within the deadlines laid down in contracts concluded between the parties.

(7) In order to guarantee payments of electricity bills, suppliers of last resort may require customers to provide financial guarantees only under the conditions laid down in the regulations issued by the competent authority.

Art. 62: Rights of the final customer in electricity

(1) Final customers of electricity shall have the following rights:

- a) have access to and consume electricity in accordance with the provisions of the supply contract;
- b) require the supplier to amend and supplement the supply contract and its annexes or to initiate additional acts to contracts where new elements appear or when it deems it necessary to detail or supplement contract terms;
- c) have access for reading to the measurement groups for settlement;
- d) require the supplier or distribution system operator to take action to remedy the malfunctions and disturbances arising in the power grids;
- e) receive compensation from the supplier, network operator or other final customer, in accordance with the contractual provisions, when the damage is caused by them or in the event of failure to comply with energy quality indicators;
- f) to associate voluntarily in order to represent the interests of customers, according to the ANRE regulations;
- g) purchase electricity under bilateral contract from an energy supplier, irrespective of the Member State in which the supplier is registered, provided that it complies with the applicable trading and balancing rules established on the territory of Romania;
- h) to change the supplier free of charge, according to an approved procedure by order of ANRE; HX)to be duly notified of any intention to change the terms/contracts and to be informed, at the time of notification, of the right to terminate the contract. The supplier and, where applicable, other economic operators entitled to conclude bilateral contracts with final customers shall notify customers of any increase in tariffs directly and in a timely manner no later than the end of the first normal invoicing period following the entry into force of the increase in a transparent and comprehensible manner; H2)to terminate any contract if it does not accept the new conditions/clauses notified by the electricity supplier; H3)to receive transparent information on the prices and tariffs charged, as well as the contractual conditions/clauses relating to the access to and the provision of the services offered by economic operators in the field of electricity;

H4) to receive all relevant data on consumption in a non-discriminatory manner as regards the costs, efforts or time needed to provide such data;

H5) to benefit from several payment arrangements, which do not unduly discriminate between customers. Early payment schemes must be fair and adequately reflect likely consumption. In the case of the domestic customer, if the amount paid by the household customer in excess of 100 lei, the supplier is obliged to repay the amount paid by the customer within 5 days from the date of issue of the settlement invoice. Amounts below this amount will be compensated in the account of the following invoices. Any difference in terms and conditions shall reflect the costs for the supplier of the different payment systems. The general conditions must be fair and transparent, presented in clear and understandable language, and should not include non-contractual barriers to the exercise of customer rights, such as, but not limited to excessive contractual documentation. Customers are protected against incorrect or misleading selling methods; H6) to benefit from transparent, simple and inexpensive complaint handling procedures. Customers are entitled to a high standard of service provision and complaint handling by the supplier and, where applicable, licensed operators concluding contracts with final customers of electricity. Out-of-court dispute resolution provides for the correct and timely resolution of disputes within 90 days and a system for reimbursement and/or compensation of actual amounts due, in accordance with the principles set out in Commission Recommendation 98/257/EC of 30 March 1998 on the principles applicable to bodies responsible for out-of-court settlement of disputes with consumers; these procedures shall be developed in compliance with a framework procedure issued by ANRE; H7) to be informed of their universal service rights when they have access to such services under the provisions of this Law;

H8) to own consumption data and to be able to grant access to measurement data, through explicit understanding and free of charge, to any licensed supplier. The party responsible for data management shall be obliged to provide such data to the supplier concerned. The data presentation format and the procedure for access of suppliers and consumers to these data are regulated by ANRE. No additional costs can be charged to customers for this service; H9) to be properly informed about actual electricity consumption and actual costs, sufficiently frequently so that they can regulate their own electricity consumption. That information shall be communicated at appropriate intervals, taking into account the capacity of the customer's measuring equipment and the energy product concerned. The supplier shall grant such facilities taking due account of the efficiency-cost ratio of these measures. No additional costs can be charged to consumers for this service;

H10) to receive a final settlement of all payment obligations within 42 days of the change of supplier.

i) to conclude contracts with several energy suppliers at the same time, for one place of consumption, which belongs exclusively to large non-household customers, whose maximum power approved by the technical approval of the connection is established by the ANRE regulations;

j) submit to the resolution of the competent authority the divergences resulting from the conduct of contracts concluded in the electricity sector, on the basis of procedures developed by the competent authority;

k) To benefit from the services of a mediator, under the terms of Law no. 192/2006 on mediation and organisation of the mediator profession, as amended and supplemented, with a view to the out-of-court settlement of disputes arising on the electricity market;

l) unilaterally terminate the supply contract under the terms of Article 58 (3).

(2) The procedure referred to in paragraph 1 letter h) shall mainly determine the stages of the process of switching the supplier, the method of settling payment obligations due by the final customer to the supplier to be exchanged, the data that may be requested by the final customer or the new supplier in the change process, as well as the economic operators who are obliged to provide them.

(3) The procedure referred to in paragraph 1 (h) must ensure that a customer who wishes to change

the supplier, subject to contractual conditions, can be made within 3 weeks of its initiation.

Art. 63: Final customers' right to choose tariffs

(1) The final customers referred to in Article 55 (1) shall be entitled to opt for any of the regulated tariffs applicable to the category to which they belong or to benefit from universal service, under the conditions established by the ANRE regulations.

(2) Domestic customers have the right to opt for any payment arrangements the provider makes available.

(3) [The text of Article 63(3) of Title I, Chapter IV was repealed on 29-dec-2018 by Article 61, point 6 of Chapter III of the Emergency Ordinance 114/2018]

Art. 64: Protection of vulnerable customers

(1) Vulnerable customers benefit from facilities for the provision of electricity supply and network access.

(2) The types of facilities for each of the categories of vulnerable customers, except for financial measures, as well as the modalities of their implementation, shall be determined by ANRE.

(3) It shall be prohibited to disconnect vulnerable customers from the power grid, including in situations of energy crisis.

Art. 65: Measurement of electricity

(1) Electricity supplied to final customers in the electricity market shall be measured by measuring operators, by measuring groups, in accordance with the measurement code developed by the competent authority.

(2) The measuring transformers of the electric energy measurement groups for settlement shall be ensured, as appropriate, by:

- a) the transmission system operator;
- b) producers;
- c) distribution operators;
- d) final customers of electricity.

(3) Measurement operators may be:

- a) the transmission system operator;
- b) the producers;
- c) distribution operator.

(4) The transmission system operator and the distribution system operator shall be required to provide the electricity measurement service to the users of those electricity networks.

(5) The transmission system operator and distribution system operator, respectively, may transfer the measuring service and the management of the measured data to an economic operator, provided that the costs recognised by the competent authority and the applicable rules issued by it are met.

(6) Where the consumption of electricity cannot be determined by measurement, it shall be established in a bundle system.

(7) The determination of electricity consumption in the bundle system shall be permitted only in the following situations:

- (i) for temporary final customers with a duration of less than 6 months, for which it is not justified or not possible to mount a measuring group;
- (ii) for places of consumption with powers absorbed below 100 W, for which it is not justified or not possible to mount a measuring group;
- (iii) in case of erroneous registration or failure of measurement groups, according to ANRE regulations.

(8) The pausal system may be used to determine the damage in cases of suspected electricity absconding, solely as a method of calculation in the cases deducted from court resolution; the duration for which it applies shall be that set by a final judgment.



#### Art. 66: Intelligent measurement systems

(1) ANRE shall assess the implementation of smart measurement systems in terms of costs and long-term benefits for the electricity market, profitability, as well as feasible implementation deadlines, based on all data obtained from the implementation of projects and installed systems that ensure the functionalities of smart measurement systems.

(2) Distribution operators have the obligation to submit to ANRE projects implementing smart measurement systems based on their own cost-benefit analyses, in order to comply with the provisions of para.

(3) IT'S ALL RIGHT. The cost-benefit analyses shall contain a detailed description of how the mandatory functionalities of these systems, as specified in the technical regulations in force, are met, as well as the benefits offered to final consumers after the systems have been installed.

(3) On the basis of the projects referred to in paragraph 2, ANRE shall approve a timetable for the implementation of smart measurement systems so as to:

a) final customers having an annual consumption higher than a threshold, expressed in kWh, established by ANRE on the basis of information and data collected in accordance with paragraphs 1 and 2, as well as customers with production sources with installed power of less than 10 kW have smart measurement systems in place by 1 January 2024;

b) final customers who do not comply with the provisions of letter a) have smart measurement systems in place until December 31, 2028, by implementing smart measurement systems on a large scale only under conditions of investment efficiency.

(4) The implementation of the systems referred to in paragraph 2 shall be approved in the framework of the annual investment plans of distribution operators. ANRE may approve the advancement of the application of the provisions of par. (3) in the conditions of cost-benefit analyses demonstrating the existence of advantages at consumer level, and the choice of this solution is more advantageous than that of the installation of classical meters.

#### Chapter V: Promoting electricity produced from renewable energy resources and in high-efficiency cogeneration

##### Art. 67: Definition of renewable energy sources

Under the terms of this Title, the following shall be defined as renewable energy sources:

a) wind energy;

b) solar energy;

c) wave and tidal energy;

d) geothermal energy;

e) hydroelectric power;

f) energy contained in the biodegradable fraction of agricultural products, waste and residues (including plant substances and animal residues), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste, called biomass;

g) the energy contained in the waste fermentation gas, also referred to as landfill gas;

h) the energy contained in the sludge fermentation gas in sewage treatment plants; energy contained in gaseous by-products, obtained by fermentation from organic waste materials, forming the gaseous fuel category called biogas;

j) the energy contained in liquid products obtained by distillation of fermented organic matter, forming the category of liquid fuel, called fuel alcohol;

k) energy from other renewable sources, currently unexploited.

l) energy obtained from braking with energy recovery of electric traction units.

##### Art. 68: Cogeneration technologies

Under the conditions of this Title, the following cogeneration technologies are defined with:

- a) combined cycle gas turbines with heat recovery and steam turbines;
- b) steam turbine with back pressure;
- c) steam turbine with condensation and adjustable sockets;
- d) gas turbines and recovery boilers;
- e) internal combustion engines;
- f) microturbines;
- g) Stirling engines;
- h) combustion cells;
- i) thermal engines;
- j) Rankine organic cycles;
- k) any other installation or combination of installations producing heat and electricity simultaneously.

#### Art. 69: High-efficiency cogeneration

In order to promote the production of electricity in cogeneration, high-efficiency cogeneration is defined as the combined heat and power generation process, which meets the following criteria:

- a) in the case of cogeneration units with installed electrical powers exceeding 25 MW:
  - (i) achieving an overall annual yield of at least 70 %; and
  - (ii) achieving a primary energy savings of at least 10 % compared to the separate production benchmarks of the same amounts of electricity and heat;
- b) in the case of cogeneration units with installed electrical powers between 1 MW and 25 MW, the achievement of primary energy savings of at least 10 % compared to the reference values for the separate production of the same amounts of electricity and heat;
- c) in the case of cogeneration units with installed powers below 1 MW, achieving primary energy savings compared to separate production of the same amounts of electricity and heat.

#### Art. 70: Grid access rules for electricity produced from renewable sources and high-efficiency cogeneration

The competent authority shall lay down by technical and commercial rules:

- a) guaranteed access to electricity grids and priority dispatching of electricity produced from renewable energy sources and high-efficiency cogeneration;
- b) priority access to electricity grids and priority dispatching of electricity produced from renewable energy sources and high-efficiency cogeneration in plants with installed powers less than or equal to 1 MW in so far as the safety level of the NES is not affected.

#### Art. 71: Criteria for promoting electricity produced from renewable sources and high-efficiency cogeneration

(1) The criteria for promoting electricity produced from renewable energy sources shall include the following:

- a) achieving the national target on the share of electricity produced from renewable energy sources;
- b) compatibility with market competitive principles;
- c) the characteristics of different renewable energy sources and electricity technologies;
- d) promoting the most efficient use of renewable energy sources so as to obtain the lowest price for the final consumer.

(2) The criteria for promoting electricity produced in high-efficiency cogeneration shall include the following:

- a) ensuring access to support schemes, while covering the justified costs of high-efficiency cogeneration;
- b) the characteristics of the different technologies for producing electricity in cogeneration;
- c) promoting the efficient use of fuels;
- d) ensuring environmental protection by reducing pollutant emissions from separate electricity and

heat production.

Art. 72: Support schemes to promote the production of electricity from renewable sources and high-efficiency cogeneration

(1) Support schemes shall be implemented to promote the production of electricity from renewable energy sources and in high-efficiency cogeneration, in accordance with the provisions of European legislation.

(2) For access to support schemes for the promotion of electricity produced from renewable energy sources and high-efficiency cogeneration, the accreditation and qualification rules laid down by the competent authority shall apply.

Art. 73: Guarantees of origin

Certification of electricity produced from renewable sources and high-efficiency cogeneration shall be attested through guarantees of origin issued by the competent authority.

Art. 74: Application of support schemes

The application of support schemes to promote the production of electricity from renewable sources of electricity and high-efficiency cogeneration is done after their authorisation by the European Commission under the law.

#### Chapter VI: Prices and tariffs

Art. 75: Types of prices and tariffs. Their substantiation

(1) The following prices and tariffs shall apply to activities carried out in the electricity sector:

- a) prices resulting from the competitive mechanisms of the electricity market;
- b) regulated tariffs for transmission, system and electricity distribution services;
- c) regulated tariffs/price for the supply of electricity to customers referred to in Article 55 of Regulation (EC) No/.

(1) subject to the provisions of Article 22, pending their disposal.

d) prices/tariffs charged by suppliers of last resort to customers in the situation referred to in Article 53(2);

e) regulated tariffs for the purchase of system technology services, pending the creation of a competitive market for system technological services;

f) regulated network connection charges;

g) regulated tariff charged by the electricity market operator;

h) regulated prices charged by electricity producers/suppliers to customers referred to in Article 55(1), in compliance with the provisions of Article 22;

i) regulated prices for heat produced in cogeneration plants;

j) prices resulting from the establishment/adjustment formulas provided for in contracts for the sale – purchase of heat or from concession or association or partnership contracts.

(2) ANRE shall develop and approve the rules on the mechanism for linking the hourly offer price on the balancing market with the closing price of the PZU market set for that time.

(3) By way of derogation from the legal provisions on acquisitions, the acquisition of works, supplies and services for the performance of activities in the electricity sector carried out on the basis of tariffs regulated by the competent authority shall be made through competitive, transparent and non-discriminatory procedures, in accordance with the regulations approved by ANRE, without finding the existence of special or exclusive rights.

Art. 76: Methodologies for regulating prices and tariffs

(1) Regulated prices and tariffs for activities of production, transmission, distribution and supply of electricity and heat produced in cogeneration plants and for the activity performed by the electricity market operator shall be determined on the basis of methodologies approved and published by the competent authority. Their calculation will take into account the justified costs of the activities concerned, development and environmental expenditure and a reasonable profit rate.

(2) Methods of formation of regulated prices for heat and support measures for electricity produced in

high-efficiency cogeneration plants benefiting from national support schemes shall be established on the basis of Government decision.

(3) Price and tariff regulatory methodologies shall be approved by the competent authority after the public consultation procedure has been carried out.

(4) The selling prices of electricity delivered by producers to suppliers of last resort in accordance with Article 28 b1) and Article II shall be determined on the basis of methodologies approved by ANRE.

(5) The differences in purchase costs in the years 2018 and 2019 of the suppliers of last resort, not recovered through the prices charged, will be recovered phased and in full by December 31, 2020, according to the ANRE regulations.

Art. 77: Highlighting costs and revenues

Licensed economic operators in the electricity sector, which practice regulated prices and tariffs, shall be obliged to submit to the competent authority:

a) costs and revenue incurred separately from the activities licensed in the structure established by the competent authority;

b) the allocation of assets, liabilities, expenditure and revenue in accordance with the regulations issued by the competent authority.

Art. 78: Determination of regulated costs and revenue

(1) For the purpose of controlling tariffs for customers referred to in Article 55(1), the competent authority shall approve the methodology for determining the costs/regulated revenue for the purchase/sale of electricity to such customers.

(2) The excess of regulated costs for the purchase/sale of electricity to customers referred to in Article 55(1) and regulated costs for transmission and distribution services may be effected, subject to the approval of the competent authority, only in exceptional circumstances by force majeure or due to legislative changes.

Art. 79: Principles for substantiating proposals for regulated prices and tariffs

(1) Proposals for regulated prices and tariffs shall be drawn up by economic operators in the electricity sector, subject to methodologies issued by the competent authority, and communicated to the Authority, together with the basis in the format laid down by it.

(2) Economic operators in the electricity sector shall transmit to the competent authority all necessary data used in the process of substantiating the request and shall provide access to such data to representatives designated by the competent authority.

(3) The order approving the regulated prices and tariffs for electricity, as well as the approval of methodologies for their calculation, applicable to final customers and activities of a natural monopoly character, shall be published in the Official Gazette of Romania, Part I. The order shall contain the date of their entry into force.

(4) The principles underlying the setting of regulated prices and tariffs for activities in the electricity sector, excluding prices for electricity and heat produced in high-efficiency cogeneration plants benefiting from support schemes, shall consider the following:

a) prices/tariffs shall be non-discriminatory, based on objective criteria and determined in a transparent manner, on the basis of methodologies approved and published by the competent authority;

b) electricity prices/tariffs must cover economically justified costs;

c) prices/tariffs shall ensure a reasonable rate of return on invested capital determined in accordance with regulations issued by the competent authority;

d) tariffs and regulated prices for final customers must allow them to choose the type of price/tariff that is more favourable to them, from those charged by the supplier, under the conditions laid down by the competent authority;

e) the connection charges shall contain only the actual costs of carrying out the customer connection works to the electricity grid;

f) the methodologies for calculating transmission and distribution tariffs shall contain short- and long-term incentive elements for increasing energy efficiency, food safety, harmonious market integration, and support for research activity related to the field of activity;

g) transmission and distribution tariffs shall be non-discriminatory and reflect the justified costs of operators, also taking into account long-term marginal network costs as a result of distributed production and demand management measures.

(5) Cross-subsidisation between regulated activities and between regulated and unregulated activities of an economic operator shall be prohibited. In the case of electricity and heat generation from high-efficiency cogeneration or renewable energy sources benefiting from national support schemes, the cross-subsidisation shall be considered between the activity of production in cogeneration or from renewable energy sources benefiting from the support scheme and the rest of the activities carried out by the economic operator.

(6) The supplier of last resort is fully recognised in the tariffs for the purchase costs of electricity and associated costs, as well as a reasonable share of profit.

(7) The principles underlying the establishment of regulated prices for electricity and heat produced in high-efficiency cogeneration plants or from renewable sources benefiting from support schemes shall include the following:

a) for electricity and heat produced from high-efficiency cogeneration or from renewable sources, the provisions of support schemes, approved by Government Decision, shall apply;

b) for heat produced from heat generation capacities located in a cogeneration power plant benefiting from support schemes, prices shall be determined on the basis of the methodology approved by the competent authority.

(8)

[The text of Article 79(8) of Title I, Chapter VI was repealed on 30 April 2020 by Article XIII, paragraph 30,

5. From the Emergency Ordinance 1/2020]

Art. 80: Price/tariff limitation

(1) In situations of major imbalances between supply and demand and obvious failures of the electricity market, the Government, at the proposal of ANRE and with the opinion of the Competition Council, may limit the excessive increase of prices/tariffs or their blocking for a fixed period of not more than 6 months, which may be extended successively for durations of no more than 3 months, as long as the circumstances leading to the adoption of that decision persist, by:

a) fixing an upper price limit on a centralised market;

b) limitation of income from regulated activity.

(2) The costs recognised and deferred in accordance with paragraph 1(b) shall be fully recovered in accordance with the procedure issued by the competent authority.

Art. 81: Cost recovery

(1) Where compliance with legal conditions for the fulfilment of public service and universal service obligations is required, electricity market participants shall have the right to recover the costs resulting from the application of these conditions.

(2) The recovery of these costs shall be made according to the regulations issued by the competent authority or by Government decision, depending on the manner of imposing public service obligations, according to Art. 16 par. (2).

Art. 82: Highlighting costs in combined heat and electricity generation

Economic operators producing combined electricity and heat and marketing at least one of them shall allocate costs between the two forms of energy, in accordance with regulations approved by the competent authority.

Art. 83: Related services

Services provided to third parties by economic operators producing hydroelectric energy and having

dams, dams, dams and reservoirs under management, concession or hire shall be carried out on the basis of contracts concluded with the beneficiaries.

#### Chapter VII: Procedure for conducting investigations Art. 84:

##### Ordering the conduct of investigations

The President of the competent authority shall order, by decision, to carry out investigations, according to the provisions of Art. 86, by their own personnel empowered for this purpose, ex officio or in response to a complaint registered with the competent authority, filed by a natural or legal person actually and directly affected by a potential violation of the provisions of this title, only in areas where ANRE has the competence of investigation under the law.

##### Art. 85: Request for information and documents

In carrying out the investigations and the powers conferred under this Title, the competent authority may request the economic operators for the information and documents necessary, stating the legal basis and the purpose of the request, and may lay down time limits within which such information and documents are to be provided to it.

##### Art. 86: Investigative rights

(1) In order to investigate the violation of the provisions of this Title under the terms of Art. 84, the ANRE personnel empowered for this purpose shall have the following rights:

- a) enter the premises, land or means of transport which economic operators legally hold;
- b) examine any documents, registers, financial-accounting and commercial documents or other evidence relating to the activity of economic operators, regardless of where they are stored;
- c) ask any representative or employee of the economic operator for explanations of the facts or documents relating to the subject matter and purpose of the investigation and to record or record their replies;
- d) to collect or obtain, in any form, copies or extracts from any documents, registers, financial-accounting and commercial documents or other records relating to the economic operator's activity;
- e) seal any site intended for the activities of the economic operator and any documents, registers, financial accounting and commercial documents or other records relating to the activity of the economic operator, for the duration and to the extent necessary for the investigation.

(2) The competent authority shall take the action referred to in paragraph 1 only if there is evidence that documents may be found or information deemed necessary for the fulfilment of its powers and the outcome of the investigation shall be recorded in a minutes of finding and inventory.

(3) The competent authority may carry out unannounced inspections and request any information or justification relating to the fulfilment of the investigative powers, both on-the-spot and by convening at the premises of the competent authority.

##### Art. 87: Judicial authorisation of investigations

On the basis of judicial authorisation given by conclusion, according to art. 88, ANRE personnel, authorised under Art. 84, may carry out inspections in any other premises, including domicile, land or means of transport belonging to leaders, administrators, directors and other employees of economic operators or associations of economic operators subject to investigation.

##### Art. 88: Obtaining judicial authorisation

(1) ANRE personnel shall carry out inspections, in accordance with the provisions of Article 87, only on the basis of the authorisation decision issued by the President of the competent authority and with the judicial authorisation given by the President of the Bucharest Court of Appeal or by a judge delegated by him. A certified copy of the empowerment decision and of the judicial authorisation shall be communicated to the person subject to inspection before it begins.

(2) The application for authorisation shall be judged in chambers without summoning the parties. The judge shall rule on the application for authorisation no later than 48 hours after the date of registration of the application. The conclusion shall be reasoned and communicated to the competent authority no later than 48 hours after delivery.

- (3) Where the inspection is to be carried out simultaneously in more than one of the premises referred to in Article 87, the competent authority shall make a single application, the court ruling in a court resolution indicating the premises in which the inspection is to be carried out.
- (4) The application for authorisation must contain all information capable of justifying the inspection, and the judge referred to it shall be required to verify whether the application is well founded.
- (5) Whatever the circumstances, the inspection shall take place between 8.00 and 18.00 and must be carried out in the presence of the person carrying out the inspection or his representative. The inspection may continue after 18: 00 only with the consent of the person with whom the inspection is carried out or by his representative.
- (6) Inventories and sealing shall be made according to the provisions of the Code of Criminal Procedure.
- (7) The conclusion referred to in paragraph 1 may be appealed to the High Court of Review and Justice within 48 hours. The time limit for appeal for the competent authority shall run from the moment of communication of the conclusion, as provided for in par. (2). As regards the person subject to inspection, the time limit for appeal runs from the moment of communication of the conclusion, according to paragraph 1. The appeal is not suspensive of execution.
- (8) The President of the Bucharest Court of Appeal or the judge delegated by him shall have the power to issue the judicial authorisation in order to carry out the inspection, according to Art. 87. The court shall verify whether the empowerment decision issued by the President of ANRE is authentic and that the coercive measures envisaged are neither arbitrary nor excessive in view, in particular, of the seriousness of the suspected infringement, the importance of the evidence sought, the involvement of the undertaking concerned and the reasonable likelihood that the registers and documents relating to the subject of the inspection will be kept at the premises for which authorisation is sought. The court may ask ANRE for detailed explanations of the elements necessary to enable it to verify the proportionality of the envisaged coercive measures.

#### Art. 89: Access to documents and information

- (1) Central and local public administration bodies, as well as any other public institutions and authorities are obliged to allow the competent authority access to documents, data and information held by them, in compliance with legal provisions.
- (2) The competent authority, having access to the documents, data and information referred to in paragraph 1, shall be obliged to respect the character of classified data and information legally assigned to those documents, data and information.

#### Art. 90: Investigation procedure

The investigation procedure shall be carried out in accordance with the Regulation on the organisation and conduct of the investigation activity, approved by order of the ANRE President.

### Chapter VII Crimes and contraventions

#### Art. 91: Responsibilities

The violation of the provisions of this Title shall entail the disciplinary, civil, contraventional or criminal liability of the guilty persons, as the case may be.

#### Art. 92: Offences

- (1) Damage, modification without right or blocking of the operation of the equipment for measuring the electricity delivered or the modification of the components of energy installations without right is a criminal offence and shall be punishable by imprisonment from 3 months to 2 years or by a fine.
- (2) The execution or use of clandestine installations for the purpose of direct connection to the network or for bypassing measuring equipment is a criminal offence and shall be punishable by imprisonment from 6 months to 3 years or by a fine.

(3) If the offenses referred to in par. (1) and (2) are committed by an employee of a license holder, the special limits shall be increased by half.

(4) The attempt on the offenses referred to in par. (1) and (2) shall be punishable.

Art. 93: Misdemeanors

(1) The following facts constitute contraventions:

1. the carrying out by natural or legal persons of activities and/or services in the electricity sector without having a license or authorisation to set up in accordance with the provisions of this Law and of the Regulation provided under Art. 9 par. (4);
2. design, execution and verification of electrical installations without attestation and/or authorisation;
3. failure to comply with technical norms issued by ANRE;
4. failure to comply with the validity conditions associated with the certificates issued by ANRE;
- 4Free the validity conditions associated with the licenses/authorisations issued by ANRE;
5. non-compliance with technical and/or commercial regulations issued by ANRE, including on the supply of electricity to final customers;
- 5Free compliance with the regulations issued by ANRE on licensing and authorisations in the electricity sector;
52. failure to comply with the regulations issued by ANRE regarding the connection of users to the public interest electricity networks;
53. failure to comply with the orders and decisions of ANRE, other than those provided for in the contraventions contained in this Article;
54. failure to comply with any legally binding decision of ACER;
6. the refusal to allow control actions ordered by ANRE, as well as to obstruct it in the performance of its duties;
7. failure to provide/not present the data, documents and/or information requested within the deadlines set by ANRE or their incomplete or erroneous provision/presentation, as well as/or failure to carry out measures within the terms ordered by ANRE and/or unjustified refusal to comply with the summons addressed by ANRE;
8. unjustified refusal to grant any applicant access to public interest networks;
9. the supply by the distribution system operator or transmission system operator of incomplete or erroneous information necessary for access to the network;
10. non-insurance by the distribution system operator or transmission system operator of non-discriminatory treatment between electricity network users;
- Unjustified delay in connecting/supplying customers with electricity or refueling them after interruption, as well as proposing connections, other than technically optimal and minimum cost solutions, according to the normative acts in force and regulations issued by ANRE;
12. the live deployment of electrical installations without a contract for the supply of electricity, and/or without an electric energy measurement group being fitted, as appropriate;
13. non-communication of a tender concerning the conditions for the supply of electricity to applicants, as provided for in Article 58(1);
14. unjustified shutdown of the electricity supply to customers;
15. failure to comply with the provisions of performance standards relating to public transmission and distribution services and electricity supply activity;
16. failure to comply with the mandatory clauses of the framework contracts issued by ANRE;
17. failure to comply with the legal provisions on the switching of electricity supplier;
18. disclosure of commercially sensitive information on commercial operations by the transmission system operator, distribution operators or electricity market operator, including all transactions under electricity supply contracts and/or financial derivatives in the electricity sector, unless requested by the



competent authorities;

19. failure to comply with the requirements for independence of the distribution operator or transmission system operator and/or rules on direct or indirect control over undertakings in the electricity generation, supply, distribution or transmission sector;
20. failure by the supplier of last resort to the obligation to provide universal service to customers in accordance with the provisions of this Title;
21. failure by producers to comply with their obligations under Articles 6 p) and Article 28;
22. failure by the transmission system operator to comply with the rules on merit order in the balancing market, on the dispatching of production facilities and/or the use of interconnections with other systems;
23. failure by the transmission system operator, for the approval by ANRE, of the transmission network development plan, within the deadlines established by the regulations in force;
24. pricing or tariffs not approved by ANRE for regulated activities;
25. failure to comply with the regulations issued by ANRE on pricing and tariffs;
26. failure to comply with the rules on accounting separation of activities carried out by licensed economic operators in the electricity sector;
27. non-publishing and outdated on their own website of the technical and commercial data provided by the regulations by participants in the electricity market;
28. the refusal of final customers to allow access to measurement groups as well as to the assets and/or management of the distribution operator or transmission system operator;
29. the execution of excavations or works of any kind in the power grid protection zones without the site approval of the transmission system/distribution operator and/or without compliance with the conditions/limitations provided for therein;
30. Prohibition/prevention by natural or legal persons of the exercise of the rights provided by this Law, access, use and servitude or restriction of certain activities, on the occasion of the work of refurbishment, repairs, revisions, damage interventions, investments, maintenance and/or connection of new users and for grubbing-up or modelling cuts, in order to create and maintain the regulatory distance from the electrical networks;
31. the use by a third party of electrical distribution/transport network components for purposes other than those laid down in electricity legislation without a contract to that effect with their rightful holder;
32. Failure by the transmission system operator to comply with the obligations laid down in Article 13(2), (3) and (6) of Regulation (EC) No 714/2009;
33. Failure by the transmission system operator and other market participants to comply with the obligations laid down in Article 15 of Regulation (EC) No 714/2009;
34. Failure by the transmission system operator and other market participants to comply with the obligations laid down in Article 16 of Regulation (EC) No 714/2009;
35. Failure by the transmission system operator and other market participants to comply with the obligations set out in Annex I to Regulation (EC) No 714/2009;
36. failure to comply with the provisions of Article 38 (2) (c) and d) and Article 48 (2) (d) and e) concerning the establishment of the compliance programme and the compliance officer;
37. failure by the transmission network owner to comply with his obligations under this Title;
38. failure by the transmission system operator to comply with the obligations referred to in Article 31 (1) (c);
39. failure by suppliers or distribution operators, as appropriate, to comply with the obligations referred to in Article 57(1) and Article 58(2);
40. failure by suppliers/networkers to comply with the rights of final customers referred to in Article 62 par. (1), except for those specified in Article 62 paragraph (1) lett. a), f), h), j), k) and l);
41. Non—compliance by market participants with their obligations under Articles 4(1) to (3), 8(1) and

- (5), 9(1) and (5) and 15 of Regulation (EU) No 1.227/2011 of the European Parliament and of the Council of 25 October 2011 on the integrity and transparency of the wholesale energy market;
42. Failure by market participants to comply with their obligations under Article 3(1) to (2)(e) and Article 5 of Regulation (EU) No 1.227/2011;
43. failure by suppliers or network operators, as the case may be, to comply with their obligations under the provisions of Article 36 (7) (s), Article 45 (1) (a) and Article 57 (11);
44. failure by the operator of the electricity market to comply with the commercial regulations issued by ANRE.
45. The refusal of concessional distribution operators to take over the power grid under the obligation laid down in Article 46(2) and (22)';
46. failure to comply with the provisions of Art. 57 par. (6);
47. failure by the transmission system operator of electricity and by the operators of electricity distribution networks to maintenance and investment programs, to the terms and conditions established by ANRE regulations.
48. Failure to comply with the provisions of Art. 28<sup>lett. b1)</sup> and c).
49. the refusal of participants in the wholesale electricity market to allow conduct of investigation and/or unannounced inspection in premises belonging to economic operators or associations of economic operators who carry out their activity in the field of electricity which they legally hold and/or operate at their domicile, land or means of transport belonging to legal representatives, administrators, directors and other employees of economic operators or associations of economic operators subject to the investigation to be inspected or to make the electronic information available and the subject of electronic information available;
50. non-providing data and information, provision of inaccurate, incomplete or misleading data and information as a result of ANRE requests made pursuant to the provisions of Articles 85 and 86 par. (1) letters c) and d) and paragraph (3);
51. failure by market participants and the transmission system operator to comply with the requirements laid down in European Regulations other than those referred to in points 32 to 35, 41 and 42;
52. Non-compliance by market participants and the transmission system operator with the transparency requirements set out in the ANRE regulations, as well as in the European Regulations, with the exception of Regulation (EU) No 1.227/2011;
53. Failure by the distribution operator to comply with the time limit for connection referred to in Article 51(32)';
54. failure by the supplier to comply with the provisions of Article 57 (7).
- (2) The offences referred to in par. (1) shall be sanctioned as follows:
1. In the case of natural persons, as follows:
    - a) with a fine from 1.000 lei to 2.000 lei, for those provided for in items 2, 11, 13, items 26-31;
    - b) with a fine from 2.000 lei to 4.000 lei, for those provided for in items 3-7, 9, 12, items 14-17, 21, 24 and 25;
    - c) with a fine from 4.000 lei to 8.000 lei, for those provided for in items 1, 8, 18 and 36;
    - d) with a fine from 20.000 lei to 50.000 lei, for the one provided for in item 45;
    - e) with a fine from 10.000 lei to 50.000 lei, for those provided for in items 49 and 50.
  2. Within legal persons, as follows:
    - a) With a fine from 5.000 lei to 100.000 lei, for those provided for in items 2, 6, 7, 9, 11, 14, 16, 17, 23, 25, 27-31, 39, 40 and 44;
    - b) With a fine from 10.000 lei to 200.000 lei, for items 1, 3-5, 8, 10, 15, 18, 20, 22, 26, 36 and 53;
    - c) With a fine from 20.000 lei to 400.000 lei, for those provided for in items 41, 54,<sup>24</sup>, 37 and 38;

- d) by a fine of between 5 % and 10 % of the annual turnover for those referred to in points 19, 21, 43, 45 to 47.
- e) by a fine from 1 % to 5 % of the annual sales turnover on the wholesale energy market in the financial year preceding the penalty for the facts referred to in points 32 to 35, points 41, 51 and 52;
- f) by a fine from 0,5 % to 1 % of the annual sales turnover on the competitive energy market in the financial year preceding the penalty for those referred to in points 49 and 50;
- g) by a fine of between 5 % and 10 % of the turnover of the year preceding the penalty, for those referred to in points 42 and 54;
- h) with a fine of between 2 % and 10 % of the turnover of the year preceding the penalty, for that referred to in point 48.

(2x)<sup>[the text of Article 93, paragraph (2A1)<sup>of</sup>Title I, Chapter VIII was repealed on 25-sep-2020 by Article I, point 52 of Law 155/2020]</sup>

(3) The finding of contraventions and the application of sanctions shall be made by:

- a) authorised representatives of the competent authority in the case of the contraventions referred to in paragraphs 1 to 27 and points 32 to 54 of paragraph 1;
- b) the authorised representatives of local councils, in the event of the contravention referred to in paragraph 1, point 29;
- c) police, gendarmes or local police officers, together with the authorised representatives of the network operators, in the case of violations referred to in paragraphs 1, points 28, 30 and 31.

(4) For the offences referred to in paragraph 1, with the exception of those referred to in items 19, 21, 42, 43, 45-47, 48 and 54, committed repeatedly by legal persons, the regulatory authority shall impose a fine of between 1 % and 5 % of the annual turnover of the offender.

(4x)<sup>For the violations referred to in par. (1) items 42, 48 and 54 committed repeatedly by legal entities, the regulatory authority shall withdraw the license of the offender following a final court ruling.</sup>

(<sup>42</sup>)<sup>By repeated contravention</sup> it is understood to commit the same contravention at least twice.

(5) The annual turnover means the turnover of the infringed legal entity from the licensed activity, in the financial year prior to the sanctioning of the act. If, in the financial year prior to the sanctioning, the undertaking did not have a turnover or cannot be determined, that of the financial year in which the offender

recorded turnover, year immediately preceding the reference year for the calculation of the turnover for the application of the penalty. If even in the year preceding the reference year for the calculation of turnover for the purpose of applying the penalty, the offender has not achieved a turnover, the last recorded turnover will be taken into account. If the offender is a newly established legal entity, which did not register the turnover in the year prior to the sanction, he will be sanctioned with a contravention fine from 100.000 lei to 1,000,000 lei.

(6) [Article 93(6) of Title I, Chapter VIII, was repealed on 19-July 2018 by Article I, point 13 of Law 167/2018]

(7) The application of the penalty of the contravention fine shall be prescribed within 2 years from the date of commission of the offense.

(8) By exception to the provisions of par. (7), the right of ANRE to apply contraventional sanctions for committing the contraventions provided for in par. (1) items 32-35, 41, 42, 51 and 52 shall be prescribed within 36 months from the date of commission of the act.

(9) By way of exception to the provisions of par. (2) item 2 in respect of contraventions committed by non-resident persons, the turnover to which the fine applies shall be replaced by the income obtained in Romania by the offender and recorded in his individual financial statements.

(10) If within 45 days of notification of the decision of the President of ANRE to complete the investigation, according to the provisions of this Law, the economic operator or association of economic operators concerned does not comply with the measures ordered, the competent authority may apply the maximum fine provided for in paragraph (2) item 2.

Art. 94: Legal regime of contraventions

The provisions of Government Ordinance no. 2/2001 on the legal regime of contraventions, approved with amendments and additions by Law no. 180/2002, with the exception of the provisions of Art. 8 par. (2) letter a) and Art. 28 par. (1) of this last normative act shall be applicable to the contraventions stipulated by Art. 93 par. (1).

Art. 95: Finding of contraventions

In order to establish the violations referred to in Article 93(1), the observing agents referred to in Article 93 (3) shall have access, under the law, to buildings, rooms, installations and any other place, up to the energy receivers, and shall be entitled to verify the installation, as well as to carry out measurements and determinations. Owners and those operating these buildings, places or installations shall be obliged to make available documents and documents specific to their activity to the investigating agents.

#### Chapter IX: Transitional and final provisions

Article 96: Entry into force

(1) The provisions of Article 32 shall enter into force on 3 March 2013.

(2) On the date of entry into force of this Law, the Electricity Law no. 13/2007, published in the Official Gazette of Romania, Part I, no. 51 of January 23, 2007, as amended and supplemented, except for Art. 7-11.

(3) No later than 60 days after the date of entry into force of this Law, the competent authority shall approve the electricity supply regulation.

(4) Within 6 months from the date of entry into force of this Law, ANRE shall adapt the regulatory framework in accordance with this title.

(5) Until the regulatory framework is adapted, all normative acts issued under Law no. 13/2007, as amended and supplemented, shall remain valid, except as contrary to this title.

(6) The authorisation of electricians in the field of electrical installations, respectively of project verifiers and of quality and extrajudicial technical experts in the field of technological electrical installations shall be carried out only by ANRE, according to the regulations issued by it.

(7) Any other form of authorisation by other public entities relating to the activities referred to in paragraph 6 shall be prohibited from the date of entry into force of this Law.

(8) Authorised natural persons until the date of entry into force of this Law shall carry out their activity until the expiry of the term of validity of the authorisations.

Art. 97: Final provisions

(1) In the normative acts in which the words ‘default supplier’ and ‘best option supplier’ appear, they are replaced by the words ‘last resort supplier’.

(2) The relevant Ministry shall notify the European Commission of the adoption of this Law and other administrative provisions necessary to implement the provisions of Directive 2009/72/EC, including by transmitting the texts of these acts.

(3) Within 24 months of the date of entry into force of this Law, the relevant ministry shall carry out an assessment of the functioning of the transmission system operator on the basis of the “system operator” model and, where appropriate, shall propose to the Government the adoption of the ownership separation model, in accordance with Article 9(1) of Directive 2009/72/EC.

(4) A vertically integrated economic operator owning a transmission network shall not be prevented from taking the necessary measures to implement the ownership separation model referred to in Article

9(1) of Directive 2009/72/EC.

## Title II: Natural Gases Chapter I:

### General provisions Art. 98: Regulatory field

(1) This Title lays down the regulatory framework for the conduct of activities relating to the production, transmission, distribution, supply and storage of natural gas and liquefied natural gas, as well as the arrangements for the organisation and functioning of the natural gas sector, of access to the market, as well as the criteria and procedures applicable to the granting of authorisations and/or licences in the natural gas sector.

(2) The provisions of this Title shall also apply in a non-discriminatory manner to biogas, gas obtained from biomass or other types of gas, insofar as it is technically possible for them to be injected or transported through the transmission/distribution systems of natural gas and through upstream supply pipelines and/or to be safely used in use facilities.

(3) This Title shall not apply to liquefied petroleum gas (LPG), compressed natural gas (CNG), compressed natural gas for vehicles (CNG).

### Art. 99: Objectives of activities in the natural gas sector

Activities in the natural gas sector must be carried out to achieve the following basic objectives:

- a) ensuring the sustainable development of the national economy;
- b) ensuring continuity and safety in the supply of natural gas to customers;
- c) protecting the legitimate interests of final customers in natural gas;
- d) promoting, stimulating and ensuring competition in the gas market;
- e) harmonisation of national legislation with relevant European Union legislation, with due regard for the principle of subsidiarity;
- f) transparency of regulated prices and tariffs in the natural gas sector;
- g) development of the natural gas sector under conditions of economic efficiency and environmental protection;
- h) promoting the production and use of new and renewable gas sources;
- i) ensuring non-discriminatory access to natural gas sources;
- j) ensuring security measures to prevent and combat acts of terrorism and sabotage on natural gas infrastructure;
- k) developing the interconnections of natural gas transmission systems with similar systems in neighbouring countries and other transmission infrastructures and the integration of the national gas transmission system into the European Network for Transmission and Gas System – ENTSO-G, hereinafter referred to as ENTSO-G;
- l) ensuring the necessary conditions for the proper functioning of the natural gas market and for the integration of the national market into the European internal gas market;
- m) ensuring non-discriminatory third party access to upstream supply pipelines, storage warehouses, transmission systems, natural gas distribution systems and LNG facilities;
- n) ensuring the operation of surface technological installations in production fields, storage storage facilities, transmission and distribution systems of natural gas, safe and efficient;
- o) ensuring the capacity to store natural gas for current needs and for those contributing to the country's energy security.

### Art. 100: Meaning of terms and expressions

For the purposes of this Title, the following terms and expressions shall be defined as follows:

1. access to upstream pipelines – the right of an economic operator in the natural gas sector or an eligible customer to use upstream pipelines, except for the part used in the natural gas production processes, i.e. the point where natural gas fulfils the technical quality conditions in order to be marketed;

2. access to the distribution system – the right of an economic operator in the natural gas sector or a customer to use the distribution system;
3. access to the storage system – the right of an economic operator in the natural gas sector or a customer to use the underground storage system;
4. access to the transmission system – the right of an economic operator in the natural gas or customer to use the transmission system;
5. access to the LNG terminal – the right of an economic operator in the natural gas sector or a customer to use the LNG terminal;
6. related activities – activities complementary to those of production, transmission, distribution, storage of natural gas, which are carried out by the licensed operator, according to the conditions of validity of the licences for the operation of those systems;
7. appliance – part of the natural gas plant intended to consume natural gas as a fuel or as a raw material, subject to the legal conditions for operation;
8. authorisation/licence – the individual administrative act issued by ANRE, granted to a natural or legal person, for the exercise of a right and the execution of obligations;
9. competent authority – National Energy Regulatory Authority – ANRE, which is organised and operates in accordance with the law;
10. technical notice – the document issued following the analysis of a technical documentation, attesting compliance with the conditions imposed by the legislation in force;
11. biogas – mixture of gases of biogen origin produced by organic substances fermentation, gasification or pyrolysis processes;
12. biomethane – biogas brought to quality parameters so that it can be used in transmission and distribution networks mixed with natural gas;
13. third party property – components of transmission systems or distribution systems, used by licensed operators for carrying out transmission or distribution services, goods not included in their assets;
14. capacity – maximum flow, expressed in unit volume per unit of time or unit of energy per unit of time, to which the network user is entitled in accordance with the contractual provisions;
15. contracted capacity – the capacity that the system operator has allocated to a user through a contract;
16. available capacity – part of the technical capacity not allocated and is still available for the system at the time;
17. firm capacity – contractually guaranteed capacity as uninterruptible by the system operator;
18. interruptible capacity – capacity which may be interrupted by the system operator in accordance with the conditions laid down in the network user contract;
19. spare capacity – the firm capacity that a network user has acquired under a contract but which the user has not nominated by the deadline specified in the contract;
20. technical capacity – the maximum firm capacity that the system operator can offer to a user, taking into account the integrity of that system and its operating requirements;
21. customer – wholesale customer, final gas client or natural gas economic operator purchasing natural gas;
22. wholesale customer – natural or legal person other than a transmission system operator or a distribution operator, who purchases natural gas for the purpose of resale inside or outside the system in which it is established;
23. domestic customer – the customer who buys natural gas for his own household consumption;
24. eligible customer-customer who is free to buy natural gas from a supplier of his choice;
25. final customer-customer buying natural gas for their own use;
26. industrial client-non-household final customer using natural gas in industrial processes by

means of installations defined according to the non-discriminatory regulation approved by ANRE;  
27. [Article 100, point 27. of Title II, Chapter I, was repealed on 19-July 2018 by Article I, point 16 of Law 167/2018]

28. non-household customer – the customer who buys natural gas that is not intended for his own household consumption;

29. vulnerable client – the final customer belonging to a category of household customers who, for reasons of age, health or low incomes, are at risk of social marginalisation and who, in order to prevent this risk, benefit from social protection measures, including financial measures. Social protection measures, as well as the eligibility criteria for them, are established by normative acts;

30. safety interruptible customer – final customer who by reducing his consumption until stopping contributes to maintaining security in the supply of natural gas in an emergency situation. The regulation of the legal regime applicable to the safety interruptible customer and any other measures to implement EU Regulation No 994/2010 of the European Parliament and of the Council of 20 October 2010 on measures to guarantee security of gas supply and repealing Council Directive 2004/67/EC shall be carried out by Government decision drawn up on a proposal from the relevant Ministry as competent authority;

31. code – collection of technical and/or commercial regulations, developed or approved by ANRE, establishing rules and procedures for natural gas economic operators;

32. upstream Supply Pipeline – any pipeline or network operated and/or constructed as part of a gas or crude oil production project or used

for the transport of natural gas from the perimeter(s) in which natural gas and crude oil production projects are carried out to a system, plant, processing terminal or to a coastal discharge terminal;

33. transmission pipeline – the assembly of pipelines, including the related installations, equipment and facilities, operating mainly under high pressure, ensuring the transport of natural gas between take-points in upstream supply pipes, interconnection pipelines, import pick-up points or LNG terminals, up to delivery points to distribution operators, final customers or interconnection pipelines;

34. interconnection pipeline – transmission pipeline crossing or crossing a border between two Member States of the European Union for the sole purpose of connecting their transmission systems; interconnection pipelines with non-EU Member States are subject to the provisions of agreements with those States;

35. technological consumption – the quantity of natural gas, certified on the basis of the methodology developed by the National Agency for Mineral Resources, necessary to be consumed by an economic operator in order to ensure the necessary technological parameters for carrying out the production and storage activity, namely the quantity of natural gas certified on the basis of the methodologies developed by ANRE, necessary to be consumed by an economic operator to ensure the technological parameters necessary for the performance of the distribution and natural gas transmission activity;

36. natural gas supply contract – a contract for the sale and purchase of natural gas, excluding a financing instrument in the field of natural gas;

37. smart metering – an advanced metering system that provides information to the final consumer and operator on the actual consumption of electricity or natural gas, as well as the actual time of consumption and which provides the consumer with options for the efficient use of energy;

37f a take or pay contract – sale-purchase contract which obliges the buyer to pay a certain negotiated quantity, even in the absence of its takeover;

38. underground storage warehouse – the space in the earth’s crust having natural qualities or acquired as a result of previous oil operations or mining activities, own for the injection, storage and extraction of volumes of natural gas, publicly owned by the State;
39. control – any rights, contracts or any other elements which, either individually or taken together and taking into account factual or legal circumstances, confer the possibility of exercising decisive influence over an undertaking, in particular by:
- a) ownership or use rights over the totality or part of the assets of an undertaking;
  - b) rights or contracts which confer a decisive influence on the structure of the undertaking, voting or decisions of the management bodies of an undertaking;
40. dispatching – the specific activity of continuous and operational balancing, at the level of the systems, of incoming and outgoing natural gas, respectively, to the parameters resulting from the delivery obligations, as well as the taking of measures to limit the effects of exceptional situations, such as: very low temperatures, natural disasters, major damage and the like, using specific means;
41. natural gas distribution – natural gas circulation activity through a distribution pipeline system to be supplied to customers, but not including supply;
42. duration of operation – the timeframe within which a natural gas target achieves the purpose for which it has been built in a safe and economically efficient manner, in accordance with the regulations in force;
43. natural gas supply – commercial activity of selling natural gas, including LNG, to customers;
44. supplier – natural or legal person carrying out the natural gas supply activity;
45. supplier of last resort – supplier designated by the competent authority to provide the supply service under specific regulated conditions;
- 45x: [Article 100, paragraph 45A1. of<sup>Title</sup>II, Chapter I, was repealed on 19-July-2018 by Article I, paragraph 16 of Law 167/2018]
46. [Article 100, point 46. of Title II, Chapter I, was repealed on 19-July 2018 by Article I, point 16 of Law 167/2018]
47. liquefied natural gas (LNG) – natural gas which, as a result of specific processes, is brought into liquid state and stored in special containers;
48. natural gas – free gas from methane gas fields, gases dissolved in crude oil, those in the gas field associated with crude oil deposits, and gas resulting from the extraction or separation of liquid hydrocarbons;
49. [Article 100, point 49. of Title II, Chapter I, was repealed on 19-July 2018 by Article I, point 16 of Law 167/2018]
50. commercially sensitive information – information the disclosure of which could restrict, impede or distort competition on the natural gas market and/or lead to injury to market participants;
51. new infrastructure – infrastructure that has not been completed by 4 August 2003; 52. surface technology installation related to the production of natural gas – the assembly of appliances, fittings and pipes, including those upstream, used for the production and circulation of natural gas;
53. storage facility – the installation used for the storage of natural gas and which is owned and/or operated by a storage operator, including LNG facilities used for storage, but excluding the part used for production activities, as well as installations reserved exclusively for transmission system operators for the performance of their duties;
54. use installation – the assembly of pipes, appliances and accessories, including the focal and flue gas exhaust basket, located after the pressure adjustment and flow measurement station/post, as appropriate, except for the flow measurement apparatus, which is part of the distribution system;



55. natural gas derivative financial instrument – commodity derivative, such as these types of financial instruments explicit in existing regulations on markets in financial instruments;
56. natural gas storage – the set of activities and operations carried out by the storage operator for or in connection with the reservation of storage capacity in underground storage and for injection, storage and extraction from these capacities of determined quantities of natural gas;
57. direct bus – transmission/distribution of natural gas pipeline, complementary to the interconnected transmission/distribution/transmission/supply pipe system of natural gas upstream;
58. natural gas monopoly – situation in which transport, storage/storage or distribution of natural gas services are provided by a single operator for a specified area;
- 581.<sup>conceding</sup> authority (concedent) for the public gas distribution service – local public administration authorities of the administrative-territorial units or their associations, as appropriate;
59. Objective from the natural gas sector – upstream supply pipeline related to the production of natural gas, a transmission, distribution or storage system of natural gas or part of one of them;
60. LNG termination operator – the natural or legal person carrying out the activity of liquefaction of natural gas or importing, unloading and regaseling LNG and is responsible for the operation of a LNG installation;
61. natural gas market operator – legal entity that ensures the organisation and administration of centralised markets, except for balancing market, for short, medium and long term natural gas trading, on the wholesale market or on the retail market, under the conditions of the regulations issued by ANRE;
62. upstream supply pipes – the natural or legal person performing the natural gas production activity and responsible for the operation, maintenance and, if necessary, development of upstream supply pipes in a given area;
63. distribution operator – the natural or legal person carrying out the activity of natural gas distribution in one or more demarcated areas and is responsible for the operation, maintenance and development of the system in that area and, where appropriate, its interconnections with other systems, as well as for ensuring the long-term capacity of the system, in order to meet the demand for the distribution of natural gas at a reasonable level;
64. storage operator – the natural or legal person who performs the storage activity and is responsible for the operation of the natural gas storage facility;
65. transmission system operator – the natural or legal person carrying out the activity of natural gas transmission and responsible for the operation, maintenance and, if necessary, development of the transmission system in a given area and, where appropriate, its interconnections with other systems, as well as for ensuring the long-term capacity of the system in order to meet the demand for the transmission of natural gas;
66. Affiliated economic operator – any other economic operator which, directly or indirectly, controls the specified economic operator, is controlled by it or is under joint control with this economic operator;
67. natural gas economic operator – natural or legal person, with the exception of final customers, who carries out at least one of the following activities: production, transmission, distribution, supply, centralised market administration, purchase or storage of natural gas, including LNG, and having commercial, technical and/or maintenance tasks related to those activities;
68. integrated economic operator in the natural gas sector – vertically or horizontally integrated economic operator in the natural gas sector;
69. horizontal integrated economic operator – natural gas economic operator performing at least one of the activities of production, transmission, distribution, supply or storage of natural gas, as well as an activity outside the natural gas sector;
70. vertically integrated economic operator – an economic operator or a group of natural gas operators in which the same person or the same

persons is (are) entitled, directly or indirectly, to exercise control over it and carry out at least one of the activities of transmission, distribution, storage of natural gas, including LNG, and at least one of the activities of production or supply of natural gas;

71. natural gas market – the organisational framework in which natural gas and associated services are traded;

72. centralised gas market – the organised framework for the conduct of natural gas transactions between different economic operators, brokered by a natural gas market operator, on the basis of specific rules approved by the competent authority;

73. natural gas balancing market – organised framework for the conduct of natural gas transactions between different economic operators, brokered by the transmission system operator, based on specific rules approved by ANRE;

74. long-term planning – long-term planning of the supply and transmission capacity of economic operators in the natural gas sector, in order to meet the natural gas demand of the system, to diversify the sources and to ensure the supply of customers;

741.<sup>complaint</sup> – *petition*, divergence, misunderstanding, dispute, dispute or any other request addressed to ANRE, in the field of natural gas, made by a natural or legal person;

75. regulated price – the price at which the supply of natural gas is carried out under a framework contract, quality of service standards and/or specific conditions laid down by the competent authority;

75 virtual trading point (PVT) – an abstract point, unique at the level of the national transmission system, between the points of entry into the national transmission system and the exit points from the national transmission system, where the transfer of the natural gas ownership right from one participant to another natural gas market participant is allowed; Pvt is used by natural gas market participants both for commercial purposes and for individual balances of their own portfolios, according to ANRE regulations;

76. connection – connection between a main branch (upstream supply pipe, transmission pipeline, natural gas distribution pipeline) and a measuring station or station for regulating, measuring, handing over natural gas, supplying a distribution system, one or more final customers;

77. transmission and/or distribution network – the combination of pipelines connected with each other, including the related installations and equipment for the circulation of natural gas, in accordance with specific technical regulations;

78. capacity reservation – keeping part of the available transport/distribution/storage capacity available to users for transport/distribution/storage of a specified amount of natural gas;

79. natural gas sector – all activities carried out by economic operators for the production, transport, storage, distribution and supply of natural gas, biogas, biomethane and LNG, as well as the installations and equipment used to carry out these activities;

80. system service – any service necessary for the access and operation of transmission networks, distribution networks, LNG and/or storage facilities, including load balancing, mixing and injecting inert gases, but excluding installations reserved exclusively for transmission system, distribution or storage operators for the performance of their duties;

801.<sup>public</sup> service – the activity of general interest in the field of natural gas, authorised and monitored by a public authority.

81. safety – security of gas supply and technical security of objectives;

82. system – any transmission, distribution, LNG terminal and/or storage facility operated by a natural gas economic operator, including related installations providing system services, including pipeline storage, as well as installations of related economic operators necessary to ensure access

to the transmission, distribution system, storage warehouse or LNG terminal;

83. transmission system – the combination of pipelines connected to each other, including the related installations and equipment for the handling of natural gas, in accordance with specific technical regulations, ensuring that natural gas extracted from the operating or import perimeters and delivery to distributors, direct customers at storage, and beneficiaries in various countries are taken;

84. national transport system (SNT) – the transport system located on the territory of Romania and which is owned by the state;

85. interconnected system – a number of systems linked to each other;

86. pipeline storage – compression gas storage in natural gas transmission and distribution systems, but excluding the quantities of natural gas reserved by transmission or distribution system operators to carry out their tasks;

87. coastal terminal – the set of installations located on the shore of the Black Sea where natural gas from submarine operating areas is taken over, i.e. the point where natural gas fulfils the technical quality conditions in order to be marketed;

88. LNGterminal – all facilities necessary for the liquefaction of natural gas or for the import, unloading and regasification of LNG, including ancillary services and temporary storage facilities necessary for the regasification process and subsequent delivery to the transmission system, but which do not include any part of LNG terminals used for storage; 881. natural<sup>gast</sup>trader — licensed natural or legal person who buys and sells natural gas exclusively on the wholesale gas market;

89. transmission of natural gas – the circulation of natural gas through a network consisting mainly of high-pressure pipelines other than a network of upstream pipelines and other than that part of high pressure pipelines which is mainly used for the distribution of natural gas at local level in order to deliver them to customers but not to include supply;

891. <sup>network user</sup> — any customer of a transmission system operator, as well as transmission system operators themselves, insofar as this is necessary for the performance of their transport functions, under the ANRE regulations and the specific legislation of the European Union;

90. system user – the natural or legal person that feeds the system or is served by the system;

91. protection zone – the area adjacent to the objectives of the natural gas sector, extended in space, in which prohibitions on the access of persons, the regime of activities and constructions established by technical rules are established;

92. safety zone – the area adjacent to the objectives of the natural gas sector, extended in space, in which restrictions and prohibitions are established, in order to ensure normal functioning and to avoid endangerment of persons, goods and the environment established by technical rules; the safety zone shall include the protection zone.

## Chapter II: Authorities and competences

### Art. 101: Energy strategy and policy in the gas sector

(1) The national energy strategy defines the objectives of the gas sector in the medium and long term and how to achieve them, while ensuring the sustainable development of the national economy. The energy strategy is developed by the relevant ministry and is approved by the Government, in consultation with non-governmental organisations, social partners and business representatives.

(2) Energy policy, following the directions set out in the energy strategy, is developed by the relevant ministry, on the basis of the governance programme, for a medium-term period and taking into account probable long-term developments, in consultation with non-governmental organisations, social partners and business representatives, taking into account mainly:

- a) setting up the appropriate institutional framework by establishing the bodies and the competent authority for carrying out this policy;
- b) ensuring security in the supply of natural gas;

- c) forecasting of natural gas imports and exports;
- d) development of natural gas development programmes;
- e) ensuring environmental protection;
- f) increasing economic and/or energy efficiency in the production, storage, transport, distribution and use of natural gas;
- g) stimulating the development of natural gas storage capacities, injection/extraction capacities from warehouses and strategic stocks;
- h) specify the guidelines on research and development specific to the natural gas sector and the promotion of advanced technologies in the field;
- i) developing international cooperation.

(3) The Government, the competent ministry and the other specialised bodies of central public administration shall take steps to achieve the energy policy objectives referred to in paragraph 2 and shall examine, annually or whenever necessary, the state of play of its fulfilment.

Art. 102: Tasks of the relevant ministry

The relevant Ministry shall elaborate the natural gas policy and ensure that it is carried out in accordance with the provisions of this Title, having the following main tasks:

- a) implements the Government's energy policy;
- b) develop programs and action plans for the implementation of the Government's policy in the natural gas sector;
- c) ensure the development of studies on the basis of which the investment priorities in the natural gas sector are to be established;
- d) develop draft legislative acts for the natural gas sector, in consultation with stakeholders;
- e) [Article 102, letter E. of Title II, Chapter II was repealed on 19-July 2018 by Article I, point 21 of Law 167/2018]
- f) supervise the application and compliance of environmental protection measures by participants in natural gas activities;
- g) ensure harmonisation with the European Union's natural gas standards and regulations and create the necessary mechanisms for their application;
- h) Ensure that the commitments under the Treaty of Accession to the European Union for natural gas are complied with and coordinate the transposition and implementation of these commitments by the institutions concerned;
- i) develop and substantiate, together with the Ministry of Labour, Family and Social Protection and employers' and trade union organisations, social policy proposals specific to the natural gas sector, social and medical assistance programs, risk insurance and accidents, in order to avoid occupational risks and rehabilitation of those who have suffered occupational accidents and diseases;
- j) monitor security of supply issues, in particular the supply/demand balance on the national market, at the level of forecasted future demand and available reserves, the envisaged additional capacity planned or under construction, the quality and level of maintenance of the networks, as well as the measures necessary to cope with peak demand and supply shortages of one or more suppliers. To this end, publish every 2 years, by 31 July, a report highlighting the findings made in monitoring these issues, as well as any measures taken or envisaged to address them and shall immediately forward this report to the European Commission;
- k) promote and facilitate, together with ANRE, cooperation between transmission system operators at regional level, including on cross-border issues, with a view to creating a competitive internal gas market based on the principles of transparency, competition, non-discrimination, solidarity and security, with a view to ensuring the consumption of natural gas for final consumers in conditions of continuity and safety; This cooperation shall cover geographical areas defined in accordance with Article 12(3) of Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13

July 2009 on conditions for access to natural gas transmission networks and repealing Regulation (EC) No 1.775/2005 and other geographical areas;

- l) Exercise the status of competent authority on the basis of Regulation (EU) No 1.938/2017 of the European Parliament and of the Council of 25 October 2017 on measures to ensure security of gas supply and repealing Regulation (EU) No 994/2010;
- m) endorses, together with the Ministry of Labour, Family and Social Protection, the legislation on the protection of labour in the natural gas sector;
- n) collaborates with the Ministry of Labour and Social Justice, which is responsible for implementing the national action plan in cases of energy poverty, defining critical situations and customers who cannot be disconnected in such situations.
- o) Develop a Preventive Action Plan on Security of Gas Supply Measures and the Emergency Plan, as provided for in Regulation (EU) 2017/1938 of the European Parliament and of the Council of 25 October 2017 on measures to ensure security of gas supply and repealing Regulation (EU) No 994/2010;
- p) It provides non-market-based measures to ensure security of gas supply in case of a crisis declaration, the emergency level as competent authority in accordance with Regulation (EU) 2017/1938 of the European Parliament and of the Council of 25 October 2017 on measures to ensure security of gas supply and repealing Regulation (EU) No 994/2010.

Art. 1021: Regulatory authority

- (1) ANRE respects and implements all relevant, legally binding decisions of ACER and the European Commission, while the Government, the competent ministry and the other specialised bodies of central public administration, as the case may be, will take all necessary steps in this respect, according to their powers and competences.
- (2) ANRE shall cooperate and consult with the other regulatory authorities within the European Union, providing them and ACER with information necessary for the performance of their tasks under Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC. As regards the exchange of information, ANRE shall ensure compliance with the same level of confidentiality as required by the issuing authority.
- (3) ANRE may request ACER's opinion on the conformity of a decision taken by a regulatory authority with the guidelines referred to in Directive 2009/73/EC or Regulation (EC) No 715/2009.
- (4) ANRE may inform the European Commission if it considers that a decision relevant to cross-border trade by another regulatory authority does not comply with the guidelines referred to in Directive 2009/73/EC or in Regulation (EC) No 715/2009 within 60 days of the date of that decision.
- (5) ANRE shall comply, within 60 days, with a decision of the European Commission requiring the withdrawal/revocation of a decision of ANRE and shall inform the European Commission accordingly.
- (6) ANRE shall approve by order of its President and publish technical rules establishing the technical safety criteria and minimum technical requirements for design, execution and operation for the connection to the system of LNG facilities, storage facilities, other transmission or distribution systems, as well as direct masters. These technical rules shall ensure the interoperability of the systems and shall be objective and non-discriminatory and notified to the European Commission in accordance with the national legislation in force transposing Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of their technical standards and regulations and of rules on information society services, as amended.
- (7) ANRE shall control, through the authorised persons, compliance with the specifications, characteristics and technical safety criteria of installations and equipment used in natural gas transmission and distribution networks, approved in compliance with the relevant European legislation.

(8) ANRE ensures the increase of information, education and awareness of the rights of the final customers of natural gas in relation to economic operators participating in the natural gas market and shall take all necessary measures to provide them with practical information.

Art. 1022: Handling of complaints

(1) Complaints submitted to ANRE shall be resolved in accordance with the provisions of this Law and ANRE regulations/procedures, by derogation from the provisions of Government Ordinance no. 27/2002, approved with amendments and additions by Law no. 233/2002, as amended.

(2) Before submitting a complaint to ANRE, if it concerns the activity of a service provider/activity provider, the complainant must in advance address the service provider/activity whose service provider is dissatisfied.

(3) Complaints whose object exceeds 36 months from the date of the commission shall not be dealt with.

(4) Complaints deducted for settlement by courts or legal entities by out-of-court can no longer be addressed to ANRE for settlement.

(5) During the settlement of complaints by ANRE, the effects of the actions of the holders of licenses/authorisations/attestations in the field of energy against complainants are suspended, under the conditions established by ANRE, except for those which would result in irreparable damage by non-application.

Chapter III: Consignment and regime of rights to property of another Article 103:

Subject matter of the concession

(1) Public property related to the transport and storage of natural gas objectives/systems, as well as transport, storage and distribution of natural gas services are subject to concession to Romanian or foreign legal entities, under the law.

(2) ~~The fee for concessions referred to in paragraph 1 shall be paid by the natural gas operator and not it may be included in the tariff of the service concerned.~~

The annual fee for concessions referred to in paragraph 1 shall be 0,4 % and shall be paid by the operator

the transport of natural gas from the value of gross income from transport operations, and transit of natural gas through state-owned national transport systems.

Art. 104: Concession of the public gas distribution service

(1) The public utility service for the distribution of natural gas shall be leased for one or more administrative-territorial units. The concession is exclusive.

The quality of the conceding authority shall be held by the local government authorities of the administrative-territorial units or associations thereof, as the case may be, for the service of public utility of general interest referred to in paragraph 1.

(12) The general framework on the legal regime of concession contracts for the public service of natural gas distribution, the procedures for granting concessions, as well as the framework content of the specification are elaborated by the relevant ministry, in accordance with the provisions of this law, and approved by Government Decision.

(13) By exception to the provisions of <sup>paragraph</sup> 11, the status of concession authority for the economic operators designated by Government Decision no. 1.649/2004 on some measures for the conduct and completion of the privatisation of the Commercial Society for Distribution of Natural Gas “Distrigaz Nord” – S A. Targu Mures and the Commercial Society for Distribution of Natural Gas “Distrigaz Sud” – S A. Bucharest is still owned by the Ministry of Energy.

(14) All legislative provisions and regulations issued by ANRE on conceding authorities shall also apply to the Ministry of Energy as a grant authority for the situations referred to in par. (13).

(2) By way of derogation from the provisions of Law no. 100/2016 on works concessions and service

concessions, with subsequent amendments and additions, the conceding authorities shall initiate the process of awarding the concession, following a request received from an interested public person or authority, under the terms of this Law.

(23) The administrative-territorial units and/or their associations may request on their own behalf the specific authorisations/licenses provided by the legislation in force, according to the law.

(3) [The text of Article 104(3) of Title II, Chapter III was repealed on 30-July 2020 by Article I, point 62 of Law 155/2020]

(4) [The text of Article 104(4) of Title II, Chapter III was repealed on 30-July 2020 by Article I, point 62 of Law 155/2020]

(5) By way of derogation from the provisions of Law no. 100/2016, as amended and supplemented, the concession authorities shall take the necessary measures to ensure, where appropriate, the concession of the public gas distribution service for one or more neighbouring administrative-territorial units and/or their associations under a single contract and the same technical supply solution in the national gas transmission system. The conceder shall ensure that, in the case of connection to the national transmission system of natural gas, the technical solution for the supply of the concession area is usually achieved by means of a single connection.

(6) The conceder of the public service of natural gas distribution shall decide to extend the concession area to one or more localities belonging to the administrative-territorial unit, within which, for at least one locality, the public utility service for the distribution of natural gas has already been leased. The extension of the concession zone shall be effected, as appropriate, by an addendum to the concession contract concluded with the concessionaire in that area, defined in accordance with paragraph 1, an additional document to be transmitted to ANRE within 30 calendar days of signature. (6x) The grantor/concessary, in order to establish the natural gas distribution system, has the obligation to obtain in advance the specific authorisations provided for in the legislation in force.

(7) After the award of the concession, for the purpose of carrying out the activity, the concessionaire shall apply for the specific authorisations/licences provided for in the legislation in force.

(8) [The text of Article 104(8) of Title II, Chapter III was repealed on 30-July 2020 by Article I, point 64 of Law 155/2020]

(9) Operators holding licenses to operate the natural gas distribution system and have concluded contracts for the provision of the public gas distribution service with local authorities, assimilated to concession contracts, shall enjoy all rights and obligations of the concessionaire provided by this Law.

(10) The distribution operator appointed by ANRE to take over the operation of a distribution system, under the conditions of Art. 138 par. (1) lett. g), shall enjoy all rights and obligations of the concessionaire provided for in this Law.

Art. 105: Ensuring the follow-up of the works

The conceder/concessionist of the public gas distribution service shall ensure the monitoring of the execution of the works provided for in the authorisation of establishment/concession contract, through his own staff or contractual staff, authorised according to the ANRE regulations.

Art. 106: Withdrawal of the concession

(1) The concession right may be withdrawn by the grantor where the holder:

- a) does not carry out the volume of works within the time limits laid down in the contract;
- b) fails to comply with the essential clauses defined as such by the parties to the contract, which include mandatory royalty payment clauses and environmental protection;
- c) systematically infringes the conditions of validity of natural gas distribution licences or legislation on safety of the objectives.

(2) The decision to withdraw the concession issued by the conceder may be challenged, within 60 days

of notification, before the competent administrative court. The final decision will be published in accordance with the legal provisions.

(3) The related license of the concession shall be withdrawn by ANRE, under the conditions of termination of the concession contract.

Art. 107: Termination of the concession contract

(1) Upon termination for any reason of the concession contract, the goods related to the public distribution service owned by the concessionaire may be taken over, in whole or in part, by the grantor or by another concessionaire, with the consent of the grantor, in exchange for payment of compensation equal to the regulated value not depreciated, as determined by ANRE.

(2) If the concession contract terminates because of the exclusive fault of the concessionaire, the concessionaire may not receive compensation from the grantor or any other concessionaire, except for compensation equal to the regulated value not depreciated, as determined by ANRE.

Art. 108: Rights of the concessionaire

(1) For the purpose of carrying out the transmission or distribution service, as regards the use of third party property, the concessionaire shall have the following rights:

- a) use these goods by the effect of the law;
- b) without prejudice to the right referred to in point (a), the conditions for exercising it shall be those laid down in the report of surrender in service and/or in the contract;
- c) include the costs related to the operation, maintenance, repair and modernisation and others, incurred for goods, when setting the tariff for the service provided, under the terms of the specific ANRE regulations;
- d) with the owner's agreement, take these goods into his property, with compensation within the limit of their efficiency rate established according to ANRE regulations;
- e) develop the system;
- f) use the full capacity of the asset;
- g) ensure that new applicants are connected, subject to one of the following conditions:
  1. presentation of the owner's acceptance;
  2. presentation of the applicant's agreement to the owner's compensation; the applicant's agreement shall be presumed where he or she agrees in writing, by an authentic instrument, to compensate the owner for his or her share of the investment made;
- h) require the owner of the good technical and economic documents demonstrating the quality of the materials and works carried out and the value of the investment;
- i) replace goods as a result of needs arising in order to modernise, increase the capacity of the system or as a result of increased wear or deterioration; the concessionaire is obliged to replace these goods in accordance with the regulations approved by ANRE for this purpose; the concessionaire is the owner of the goods thus replaced.

(2) In relation to the rights referred to in paragraph 1, transmission system operators shall undertake:

- a) finance investments related to the replacement of goods at the expiry of their service life;
- b) operate and maintain goods for the safe operation of the system.

(3) In order to ensure continuity and safety in the supply of natural gas to customers, where the provision of the public transport/distribution service is carried out through goods owned by third parties, it shall be prohibited to change the destination for which these goods were constructed.

Art. 109: Right of use and right of servitude

On land and other public property or private property of natural or legal persons, as well as on activities carried out by natural or legal persons in the vicinity of capacities, natural gas concessionaires shall, under the law, benefit from the following rights during the development, rehabilitation, modernisation, operation and maintenance of those capacities:

- a) the right of use for the execution of the works necessary to achieve, rehabilitate or modernise the objectives/systems;



- b) the right of use to ensure the normal functioning of capacity by carrying out the necessary revisions, repairs and interventions;
- c) the right of legal servitude of underground, surface or air passage for the installation of networks, pipelines, lines or other equipment related to the objectives/systems and for access to their location;
- d) the right to obtain the restriction or cessation of activities that could endanger persons and property;
- e) right of access to public utilities.

Art. 110: Right of use for the execution of works

In exercising the right of use for the execution of the works necessary to achieve, rehabilitate or modernise the objectives/systems, the concessionaire may:

- a) store materials, equipment, machinery and facilities on private land to the extent strictly necessary;
- b) dismantle existing crops or plantations or other landscaping, or merely restrict them, to the extent strictly necessary for the execution of the works, under the law;
- c) extract materials, capture water, under the conditions laid down in the legislation in force;
- d) install and work with machinery, place offices and construction sites;
- e) to prevent or restrict the activities of the owner, to the extent strictly necessary for the execution of the works for that objective/system.

Art. 111: Right of use to ensure the normal functioning of the objective/system

(1) The right of use to ensure the normal functioning of the objective/system shall extend throughout its lifetime and exercise it whenever necessary to ensure the normal functioning of the objective/system.

(2) In exercising the right provided for in paragraph 1, the concessionaire may:

- a) store materials, equipment, machinery, maintenance facilities, revisions, repairs and interventions;
- b) install and work with machinery;
- c) affect existing crops, plantations or other landscaping and restrict the activities of the owner, to the extent and for the strictly necessary duration, for maintenance, repairs, revisions or interventions.

Art. 112: Right of legal servitude of subterranean, surface or aerial passage

Legal servitude of underground, surface or aerial passage includes the right to install networks, pipelines, lines, pillars and other equipment related to capacity, as well as access to their location for interventions, maintenance, repairs, revisions, modifications and operation, according to the legal provisions in force.

Art. 113: Exercise of rights of use and servitude

(1) Rights of use and servitude shall have the object of public utility, shall be lawful in nature, and their content is laid down in Article 109 and shall be exercised without entry in the land book.

(2) The exercise of the rights of use and servitude shall be carried out on a compulsory basis throughout the existence of the natural gas target/system, both on the occasion of its realisation and on the occasion of the refurbishment of a functional capacity, repair, revision, intervention works, in case of damage, under the law, without any other prior formality.

(3) For the purpose of granting allowances and fair compensation related to the exercise of rights of use and servitude, holders of licences and authorisations shall conclude with landowners affected by the exercise of rights of use and servitude a framework convention the content of which is established by Government Decision.

(4) Holders of licences and authorisations shall be required to conclude the framework conventions referred to in paragraph 3 within 30 days of the request of the affected owners.

(5) If, on the occasion of interventions for development, modernisation, repairs, revisions, damages, damages occur to owners in the vicinity of natural gas objectives/systems, the concessionaires are obliged to pay compensation under the law.

(6) The compensation shall be determined taking into account the following criteria:

- a) the area of land affected during the work;
- b) the values for the estimated yields of the crops and plantations affected, communicated by the competent bodies and the facilities affected by the works;
- c) the value of the movement of the immovable property affected.

(7) The amount of compensation shall be determined by agreement of the parties or, if the parties are not understood, by a judicial decision.

Art. 114: Right to obtain restriction or cessation of activities

(1) In order to avoid jeopardising the persons, goods or activities carried out in the area of carrying out the development, rehabilitation, modernisation of objectives/systems, as well as the revision, maintenance or repair operations to the objective/system in operation, the concessionaire shall have the right to obtain the restriction or termination, to the extent necessary and during the said works or operations, of the activities carried out in the vicinity by other persons.

(2) The distribution system operator shall have the right to intervene at any time on the natural gas distribution networks in order to carry out emergency repair work, in accordance with ANRE regulations, without having to obtain the prior approvals and authorisations provided for in this Title, in order to remedy those defects that endanger the safety and safety of consumers.

Art. 115: Right of access to public utilities

The right of access to public utilities must be exercised by the concessionaire in good faith, without prejudice to other persons' access to those public utilities.

Art. 116: Right to contract the provision or provision of services

For secondary consequences caused or likely to be caused by the development, rehabilitation or modernisation, respectively through the operation of natural gas objectives/systems, the concessionaire may contract with the persons concerned, as a beneficiary, the provision or provision of appropriate services, under the law.

Art. 117: Establishment of protection or safety zones

For the normal protection and functioning of natural gas objectives/systems, ANRE shall establish, through technical norms, their protection and safety zones.

#### Chapter IV: Authorisations and licenses

Art. 118: Authorisation regime

(1) The establishment of new upstream supply pipelines related to the production of natural gas, as well as new production targets for biogas, biomethane and LNG or new transmission, storage and distribution systems of natural gas by Romanian or foreign legal entities is carried out on the basis of authorisations to set up.

(2) The activities of the supply of natural gas, biogas/biomethane, LNG, operation of upstream supply pipes related to production or storage of natural gas, transmission systems, distribution systems, LNG terminals, as well as the management of centralised natural gas markets shall be carried out on a licence basis.

(2x) The supply of natural gas distribution service shall be carried out without a license granted by ANRE, according to the provisions of this title, to economic operators on the basis of the decision provided under Art. 139 par. (6), to industrial parks administrators established under Law no. 186/2013, as amended by Law no. 84/1992, with subsequent amendments and additions, with the same obligations to comply with the regulations of ANRE corresponding to a license holder for that activity.

(3) The procedure for granting, amending, suspending and withdrawing authorisations and

licenses, terms and conditions for granting shall be established by regulations developed by ANRE.

#### Art. 119: Categories of authorisations and licences

The competent authority shall issue:

1. design/execution/exploitation authorisations for:
  - a) upstream supply pipes;
  - b) natural gas transmission systems;
  - c) natural gas distribution systems;
  - d) installations for the use of natural gas;
  - e) installations related to the biogas/biomethane production/storage activity;
  - f) surface technological installations related to the storage of natural gas;
  - g) [Article 119, point 1., letter G. of Title II, Chapter IV was repealed on 19-July-2018 by Article I, point 31. of Law 167/2018]
2. authorisations for the establishment of:
  - a) upstream supply pipes;
  - b) surface technology installations related to storage, in the case of new warehouses;
  - c) biogas/biomethane plants;
  - d) natural gas transmission/distribution systems in the case of new systems;
  - e) LNG facilities.
  - f) hydrogen production plants.
3. Licences for the performance of activities of:
  - a) supply of natural gas, biogas/biomethane and LNG;
  - b) operation of underground transmission, distribution or storage systems;
  - c) operation of upstream supply pipes related to the production of natural gas;
  - d) operation of LNG terminals;
  - e) management of centralised markets.
  - f) natural gas trader.
  - g) commercial exploitation of hydrogen production plants.

#### Art. 120: Refusal to grant an authorisation or licences

(1) ANRE may refuse to grant an authorisation/licence in the following cases:

- a) the applicant does not fulfil the conditions laid down in the Specific Regulations;
- b) the applicant is in judicial or bankruptcy reorganisation;
- c) the applicant has been withdrawn by ANRE an authorisation/licence in the last 5 years for reasons attributable to it;
- d) for the construction and operation of natural gas distribution systems in a demarcated area for which authorisation/licence has been issued to another economic operator.

(E)Applicants who have as controlling shareholders or as administrators persons who previously had the status of controlling shareholder or administrator within licensed economic operators who have failed to discharge their payment obligations arising from transactions carried out on the natural gas market may not be authorised.

(2) The reasons why an authorisation/licence is refused shall be objective and non-discriminatory, the refusal shall be ordered and motivated by decision of the president of ANRE, the applicant being able to appeal the decision to the court of administrative litigation, according to the law.

(3) The reasons for refusing an authorisation to set up shall be notified to the European Commission.

#### Art. 121: Design and implementation of natural gas objectives

(1) In order to design, execute and exploit natural gas objectives/systems, economic operators have the obligation to hold authorisations issued by ANRE based on a specific regulation.

(2) The objectives of the natural gas sector, as well as the work of amending, modernising or

extending them, shall be designed and carried out by authorised legal entities.

(3) In order to design and implement natural gas objectives/systems, individuals have the obligation to hold the status of authorised installer, granted by ANRE under a specific regulation.

Chapter V: General provisions on production, transport, distribution,  
storage, supply and administration of centralised gas markets

Art. 122: Common obligations of licence holders

(1) The common obligations of licence holders in the natural gas sector, irrespective of their ownership or legal regime, are the following:

- a) keep separate accounts in the internal accounting system by types of activities carried out and for each of the regulated activities, as they would be required to do if those activities were carried out by separate economic operators so as to allow accurate reflection of the income and expenditure related to each activity, in order to avoid discrimination and cross-subsidisation, and to encourage competition; they shall also keep separate accounts, which may be consolidated, for other activities in the natural gas sector as well as for activities outside the natural gas sector; revenues resulting from ownership of the transmission or distribution network shall be specified separately in analytical revenue accounts; internal accounts shall comprise a balance sheet and a profit and loss account for each activity;
- b) Draw up, submit for audit and publish the annual financial statements at the level of economic operator, which do not cover distinctly secondary establishments without legal personality in accordance with specific legislation adopted in accordance with the Fourth Council Directive 78/660/EEC of 25 July 1978;
- c) preserve the confidentiality of commercial information obtained from third parties;
- d) do not abuse commercially sensitive information obtained from third parties in the process of ensuring access to the system;
- e) provide the information necessary for third parties' access to the system in a clear, transparent, easily accessible and at appropriate intervals;
- f) hold all the authorisations and licences provided for in the legislation in force;
- g) comply with the validity conditions associated with the authorisations and licenses granted by ANRE;
- h) use natural gas in compliance with the provisions of Article 181;
- i) provide ANRE, on request, copies of all contracts for purchase/sale/purchase/supply of natural gas and transit of natural gas, as appropriate.
- j) do not abuse the information classification system and make it possible to ensure transparency of public information;
- k) to provide correctly and fully the data and information required by ANRE, to carry out the measures ordered by ANRE and to carry out the summons addressed by ANRE.

(2) Economic operators who are not required to publish the annual financial statements shall keep at their premises a copy of them, available to the public.

(3) The audit activity referred to in paragraph 1(b) shall consist of particular of verifying compliance with the obligation to avoid discrimination and cross-subsidisation between the activities carried out by the audited economic operator.

(4) In their internal accounts, economic operators shall be required to lay down the rules for the allocation of assets and liabilities, expenses and revenue and losses which they will apply in order to keep the separate records referred to in paragraph 1 (a); these rules may be amended only in exceptional cases and must be duly mentioned and justified in accordance with the ANRE regulations.

(5) Economic operators shall indicate by explanatory notes to the regulated accounting records any transaction performed with related enterprises of a certain importance, according to the ANRE regulations; Related undertakings shall mean affiliated undertakings within the meaning of Article 41 of the Seventh Council Directive 83/349/EEC of 13 June 1983 and/or associated undertakings within

the meaning of Article 33 (1) of that document and/or undertakings belonging to the same shareholders.

Art. 123: Natural gas manufacturer

(1) Natural gas manufacturer shall be the natural or legal person having as its specific activity the production of natural gas, biogas/biomethane, hydrogen or other types of gas under the terms of this Title.

(2) Tariffs for third party access to upstream supply pipes shall be established by the economic operator performing this activity, based on a methodology developed by him and approved by ANRE.

(3) Tariffs determined on the basis of the methodology approved by ANRE shall be published by the economic operator referred to in paragraph (1) on its own website, prior to their application.

Art. 124: Obligations and rights of the natural gas producer

(1) The main obligations of the natural gas producer are:

a) hold the authorisations for the establishment of upstream supply pipelines related to the natural gas production activity and their operating licence;

b) ensure the operation of upstream supply pipes related to the production of natural gas safely, efficiently and environmentally;

c) ensure third party access to upstream pipelines under non-discriminatory conditions in accordance with specific regulations;

d) carry out activities related to the operation of upstream supply pipes, according to the specific regulations developed by ANRE, within the limits of the rights conferred by the conditions of validity of the licence;

DX) to ensure natural gas deliveries, in compliance with the conditions imposed by licenses, contractual clauses and regulations in force;

e) by 31 March 2017, make available as a priority to suppliers the quantities of natural gas resulting from the production activity necessary to cover the consumption of household customers, including the quantities for heat producers, only for the quantities of natural gas used in the production of heat in cogeneration plants and in heating plants intended for the consumption of the population, in accordance with the ANRE regulations and in compliance with the schedule of price liberalisation and natural gas insurance for them; suppliers and non-household customers benefiting from these quantities shall be required to respect the destination of these quantities of natural gas; the remainder of the producers' own production, except the quantity of natural gas related to the technological consumption defined in Article 100(35), shall be made available to the competitive market;

Ex) to trade by public, transparent and non-discriminatory offer on centralised natural gas markets, in accordance with the provisions of Art. 177 and ANRE regulations;

f) ensure the odourisation of natural gas according to the regulations in force, for natural gas delivered at the points of commercial gas surrender and takeover to customers directly connected in the upstream pipelines, as well as to distribution systems.

(11) Until 30 June 2020, producers, including their subsidiaries and/or affiliates belonging to the same economic interest group, which carry out both extraction and sale activities of natural gas extracted from the territory of Romania, shall be obliged to sell at the price of 68 lei/MWh, under the conditions regulated by ANRE, the quantities of natural gas resulting from the current domestic production activity and/or storage warehouses, to suppliers of household customers and heat producers, only for the heat production of the natural gas used for the production of the natural gas. The measure applies only if the average market price, monitored by ANRE, taking into account the quantities and prices recorded in each market segment, is above the value of 68 lei/MWh.

(12) The differences in purchase costs in the years 2018 and 2019 of suppliers, not recovered through

the prices charged, will be recovered by June 30, 2020, according to ANRE regulations.

(13) The purchase price paid for gas from the current domestic production needed to cover the consumption of household customers and heat producers, only for the quantity of natural gas used in the production of heat in cogeneration plants and heat plants intended for the consumption of the population, shall not exceed 68 lei/MWh, irrespective of the seller.

(2) The main rights of the natural gas producer are:

- a) to develop technical/commercial norms specific to its own activity and submit them to ANRE for approval;
- b) market natural gas resulting from the extraction process, within the limits of the supply licence;
- c) interrupt the operation of the installations during the strictly necessary time for the execution of maintenance and repair work, as well as in other situations required by law, with prior notification of the dispatchers of the affected systems and, where appropriate, the final customers;
- d) refuse access by third parties to upstream supply pipes:
  1. where there is, with regard to technical specifications, an incompatibility which cannot be resolved in an acceptable manner;
  2. in order to avoid difficulties which cannot be overcome in an acceptable manner and which could prejudice the efficient, current and future production of hydrocarbons, including deposits whose economic viability is low;
  3. in order to meet the reasonable and duly justified needs of the owner or operator of the upstream pipeline network with regard to the transmission and processing of natural gas, as well as the interests of all other users of the upstream pipeline network or of the main processing and handling facilities likely to be affected;
  4. In the situations referred to in Article 149;
- e) refuse the connection of third parties to upstream supply pipes as provided for in Article 148.

Art. 125: Transport of natural gas

(1) The natural gas transport activity is a public service of national interest.

(2) The transmission of natural gas shall be carried out by the transmission system operator certified by the competent authority under the law.

(3) The national transport system is public property of the state.

(4) The development, rehabilitation, modernisation, operation and maintenance of natural gas transmission objectives/systems, including connections and control-measurement-tendering stations, are public utility works.

4x)The cost of the works referred to in paragraph 4 shall fall within the category of costs recognised for the activity referred to in Article 179(2)(e).

(5) The delimitation points of the transmission system are from the tap from the entry into the adjusting-tendering station belonging to the manufacturers or operators of storage systems, namely the border crossing point, in the case of interconnection pipes to the transmission systems in neighbouring countries, to the tap at the outlet of the transport operator's adjustment-measurement and surrender station, namely the border crossing point in the case of interconnection pipelines to the transmission systems of neighbouring countries.

(6) The transmission system operator is required to develop investment plans and development of the transmission system over 10 years, in line with the state of play and future evolution of gas consumption and sources, including gas imports and exports.

(7) The plans will include the modalities for financing and carrying out investments in transport installations, taking into account plans for the planning and systematisation of the territory covered by them, subject to compliance with environmental protection rules.

(8) The plans referred to in paragraph (6) shall be approved by ANRE.

(9) where the State or other body governed by central public law has control over both economic

operators carrying out any of the activities of production or supply, as well as in transmission system operators or a transmission system for natural gas or electricity, a Government decision shall establish, on the one hand, the public entity representing the State in control of economic operators carrying out production and supply activities in the field of natural gas and electricity and, on the other hand, the public entity in the transmission of the natural gas and the public control entity representing the State.

(10) Any public or private entity, including designated natural persons or in its own name, which exercises direct or indirect control over an economic operator carrying out any of the activities of production or supply in the field of natural gas or electricity shall not have the right to exercise direct or indirect control over a transmission operator or a transmission system in the field of natural gas or electricity.

(11) Any public or private entity, including natural persons designated or on its own behalf, which exercises direct or indirect control over a natural gas or electricity transmission system shall not have the right to exercise control, directly or indirectly, over an economic operator performing any of the activities of natural gas or electricity production or supply.

(12) Where a transmission system operator has been part of a vertically integrated economic operator, its management bodies and its staff shall be prohibited from transferring commercially sensitive information referred to in Article 130 of Regulation (EC) No/.

(1) letter t), to any economic operators in the natural gas sector performing production or supply activities.

(13) Persons exercising within the transmission system operator relevant functions under which they have had access to commercially sensitive information shall be required to preserve their confidentiality and cannot hold similar functions within economic operators in the field of production or supply of natural gas, for a period of at least 2 years from the date of termination of the contractual relations CU the transmission system operator, in accordance with the terms laid down and regulated in the individual employment contract,

(14) ANRE shall monitor the investment plans of transmission system operators and provide in its annual report an assessment of these investment plans in terms of their consistency with the Community-wide network development plan referred to in Article 8(3)(b) of Regulation (EC) No 715/2009; such an assessment may include recommendations to amend these investment plans.

Art. 126: Operation of the national transport system

(1) The transmission system operator of the national transmission system shall be organised and operated as an independent system operator and is the legal entity certified by ANRE under the conditions set out in Article 128.

(2) In case of certification of a transmission system operator in which the state controls simultaneously with the control of economic operators performing production and supply activities in the field of natural gas and in the field of electricity, the application for certification, together with the supporting documentation on the fulfilment of the requirements set out in Article 128, shall be submitted to ANRE by the transmission system operator, with the opinion of the transmission system owner, within 15 days from the date of entry into force of the Government decision referred to in Article 125(9).

(3) ANRE shall issue a preliminary certification decision within 120 days from the date of registration of the transmission system operator's application, which shall be notified to the European Commission, together with the related documentation.

(4) After the expiry of the period laid down in paragraph 3, certification shall be deemed to be granted, the tacit certification of a transmission system operator shall be notified to the European Commission, together with the related documentation.

(5) The procedure for certification of the transmission system operator shall be completed in accordance with Article 3 of Regulation (EC) No 715/2009.

(6) The designation of the transmission system operator as an independent system operator shall be approved by the European Commission following the communication by ANRE to the certified economic operator, after completion of the certification procedure in accordance with paragraph 5.

(7) In addition to the certification decision, the competent authority shall be obliged to notify the European Commission of any request for certification of the transmission system owner or transmission system operator, which is controlled by a person or persons from one or more third countries, and any circumstances in which a person or persons from one or more third countries would gain control of the transmission system or the transmission system operator, where appropriate.

(8) Upon termination for any reason of the concession contract, the assets related to investments made by the transmission system operator of the national natural gas transmission system, as concessionaire, shall be taken over by the owner of the National Gas Transmission System, as conceder, or by another concessionaire with the grantor's agreement, in exchange for payment of compensation equal to the regulated value not depreciated, as determined by ANRE.

(9) The independent system operator has the obligation to plan, execute directly or through the economic operators authorised by ANRE and to put into service new objectives.

Art. 1261: Operation of transmission systems other than the national transport system

(1) An economic operator that owns a natural gas transmission system shall act as a transmission system operator, as holder of an oil agreement for the transmission of natural gas, under the law.

(2) Before being approved and designated as a transmission system operator, an economic operator which owns a natural gas transmission system shall be certified in accordance with Article 1262:

(3) The ANRE Certification Decision shall be published in the Official Gazette of Romania, Part I, and on the ANRE website.

Art. 1262: Certification of transmission system operators owning a natural gas transmission system

(1) The economic operator that owns a natural gas transmission system shall submit an application to ANRE to initiate the certification procedure.

(2) The certification procedure shall include the verification by ANRE of the fulfilment by the economic operator referred to in paragraph 1 of the following conditions:

a) the same person or persons shall not have/are not entitled to:

(i) exercise, directly or indirectly, control over an economic operator carrying out any of the activities of production or supply of electricity or natural gas and directly or indirectly exercise control or exercise any right over a transmission system operator in the field of electricity or natural gas or a transmission system system for electricity or natural gas; or

(ii) exercise, directly or indirectly, control over a transmission system operator in the field of electricity or natural gas or a transmission system for electricity or natural gas and to exercise, directly or indirectly, control or exercise any right over an economic operator performing any of the activities of production or supply of electricity or natural gas;

b) the same person or persons are not/are not entitled to appoint members of the supervisory board, board of directors or other bodies legally representing the economic operator in the case of a transmission system operator or in the case of a natural gas transmission system, and also to exercise, directly or indirectly, control or exercise any right over an economic operator performing any of the activities of production or supply of natural gas; and

c) the same person may not be a member of the supervisory board, the management board or other bodies legally representing the economic operator, both in the case of an economic operator performing any of the activities of production or supply of natural gas, and in the case of a transmission system operator or a transmission system.

(3) The rights referred to in paragraph 2 (a) and (b) shall include, in particular:

a) the power to exercise voting rights;



b) the power to appoint members of the Board of Supervisors, the Management Board or other bodies legally representing the undertaking; or

c) holding a majority share.

(4) ANRE shall issue a certification decision within 120 days from the date of registration of the transmission system operator's application, which shall be notified to the European Commission, together with the related documentation.

(5) After the expiry of the period referred to in paragraph 4, certification shall be deemed to have been granted. The tacit certification of a transmission system operator shall be notified to the European Commission, together with the related documentation.

(6) The procedure for certification of the transmission system operator shall be completed in accordance with Article 3 of Regulation (EC) No 715/2009.

(7) A vertically integrated economic operator who owns a transmission network shall not be prevented from taking the measures necessary to implement the ownership separation model in accordance with Article 126<sup>1</sup> (1).

Art. 127: Certification of transmission system operators controlled by third countries

(1) Prior to the certification of a transmission system operator which is controlled by a person or persons from one or more third countries, ANRE shall request an opinion from the European Commission that:

a) that entity satisfies the conditions laid down in Article 126<sup>2</sup> or Article 128, as appropriate; and  
b) the granting of certification does not jeopardise the security of the European Union's natural gas supply.

(2) ANRE shall refuse the certification of a transmission system operator which is controlled by a person or persons from one or more third countries in the following situations:

a) The entity concerned does not fulfil the conditions laid down in Article 126<sup>2</sup> or Article 128, as appropriate;

b) the granting of certification may jeopardise the security of supply of natural gas in the national and European Union territory; in examining this aspect, ANRE shall take into account:

(i) the rights and obligations of the European Union vis-à-vis that third country under international law, including any agreement concluded with one or more third countries to which the European Union is a party and in which issues relating to security of gas supply are addressed;

(ii) the rights and obligations of Romania towards that third country under agreements concluded with that third country in so far as they comply with European Community law; and

(iii) other specific elements related to the case or to the third country concerned.

(3) within two months of issuing the opinion by the European Commission, ANRE shall adopt the final decision on certification, taking the utmost account of this opinion. The ANRE decision shall be published together with the opinion of the European Commission in the Official Gazette of Romania, Part I, and on the website of ANRE. If the European Commission does not deliver an opinion within two months of receipt of the request or within 120 days if it has requested an additional opinion, it may be considered that it has not raised objections to the ANRE decision.

(4) If the final decision of ANRE differs from the opinion of the European Commission, the reasons for this decision shall be published.

(5) ANRE may, in any event, refuse the certification referred to in paragraph 1 if its granting would jeopardise the security of natural gas supply in the national territory or in the territory of another Member State of the European Union.

Art. 127<sup>1</sup>: Joint venture as a transmission system operator

Any transmission system operator or independent system operator, which holds the capacity of an oil agreement holder for the transmission of natural gas under the law, and is certified from the territory of Romania under the terms of Article 126<sup>2</sup> or 128, as the case may be, may form part of a joint venture of 2 or more economic operators holding transmission networks and performing the role of transmission

system operator in two or more Member States for the transmission systems concerned.

Art. 128: Certification conditions of the national transmission system operator and system

(1) The certification of the transmission system operator shall be carried out if the following requirements are met:

a) the same person or persons shall not be entitled to:

(i) exercise, directly or indirectly, control over an economic operator carrying out any of the activities of production or supply and, at the same time, directly or indirectly exercising control or exercising any right over the transmission system operator or a transmission system; or

(ii) exercise, directly or indirectly, control over the transmission system operator or a transmission system and to exercise, directly or indirectly, control or exercise any right over an economic operator performing any of the activities of production or supply;

b) the same person or persons shall not be entitled to appoint members of the supervisory board, the administrative board or other bodies legally representing the transmission system operator in the case of a transmission system operator or in the case of a transmission network, and also to exercise, directly or indirectly, control or exercise any right over an economic operator performing any of the activities of the production or supply of natural gas;

c) the same person is not entitled to be a member of the supervisory board, the management board or other bodies legally representing the economic operator both in the case of an economic operator performing any of the production or supply activities and in the case of a transmission system operator or a transmission network;

d) the transmission system operator shall have financial, technical, physical and human resources at its disposal;

e) the transmission system operator undertakes to comply with a 10-year transport network development plan approved by ANRE;

f) The transmission system operator shall be able to comply with its obligations under Regulation (EC) No 715/2009, including cooperation with other transmission system operators at European and regional level;

g) the transmission system owner shall comply with the requirements laid down in Article 131.

(2) The rights referred to in paragraph 1 (a) and (b) shall include, in particular:

(i) the power to exercise voting rights;

(ii) the power to appoint members of the Board of Supervisors, the Management Board or other bodies legally representing the economic operator; or

(iii) holding a majority share.

(3) For the purposes of paragraph 1 (a), the term ‘economic operator carrying out the activity of production or supply of natural gas’ also includes activities of electricity generation and supply, and the terms ‘transmission system operator’ and ‘transmission network’ shall also include terms which are used in the electricity sector in the same sense.

Art. 129: Reassessment of the certification of the transmission system operator

(1) The transmission system operator shall notify ANRE of any planned transaction which may require a reassessment of its compliance with the requirements of Article 128, as well as any circumstances under which a person or persons from one or more third countries would acquire control of the transmission system or the transmission system operator.

(2) ANRE may decide to reassess the transmission system operator’s fulfilment of the requirements set out in Article 128:

a) following notification by the transmission system operator under the conditions of paragraph 1;

b) ex officio;

c) at the European Commission’s reasoned request.

Art. 130: Obligations and rights of the transmission system operator

- (1) The transmission system operator shall in particular have the following obligations:
- a) operate the transmission system and ensure its residual physical equilibrium, i.e. the scheduling, dispatching and functioning of the transport system safely;
  - b) maintain, rehabilitate, modernise and develop the safe, efficient and environmentally sound transport system;
  - c) develop, maintain and develop an IT system for monitoring, ordering and data acquisition, enabling monitoring and operational management of the operation of the natural gas transmission system;
  - d) ensure third party access to the transmission system, in accordance with specific regulations, under non-discriminatory conditions, within the limits of transmission capacities and in compliance with technological regimes; D<sup>X</sup> to develop and submit to ANRE, for approval and publication, methodologies used to calculate or establish the terms and conditions for access to cross-border infrastructures, including procedures for capacity allocation and congestion management;
  - e) connect all applicants to the transmission system within 180 days of the date of obtaining the building permit. The recovery of the costs related to connection is performed through transport tariffs according to ANRE regulations;
- E<sup>1</sup> to extend, until December 2021, the pipeline network, until entering the localities certified as tourist resorts of national or local interest, when these localities are at a distance of not more than 25 km from the connection points of the transmission system operators; E<sup>2</sup> to prioritise the connection to the natural gas network in case of new job-generating investments;
- f) carry out activities related to the system operation, according to the specific regulations approved by ANRE, within the limits of the rights conferred by the conditions of validity of the license;
  - g) develop and apply optimal transport and delivery regimes for the quantities of natural gas notified by network users for a certain period of time in accordance with the contracts concluded;
  - h) develop and update technical operating agreements in the border area and submit them to ANRE for approval prior to entry into force;
  - i) to prepare and monitor the balance of natural gas entered into the system and, respectively, out of the system, according to ANRE regulations;
  - j) to constitute in the underground storage warehouse a minimum stock or to ensure the purchase of gas, including import, for the quantities necessary to operate and ensure the physical equilibrium of the transmission system, in accordance with the specific regulations approved by ANRE;
  - k) to ensure the odourisation of natural gas at the exit of the SNT, corresponding to the regulations proposed by the transmission system operator and approved by ANRE;
  - l) to develop at the request of ANRE and submit for approval the tariff methodologies related to the performance of the balancing service activity;
  - m) exchange information with other interconnected transmission system operators, LNG and distribution operators and other energy collaborators, in compliance with ENTSO-G's regulations on information exchange protocols, reports, structure and procedures for access to databases;
  - n) provide the necessary system services for the access and operation of transmission networks;
  - o) to develop specific regulations necessary for the performance of operational management activity, in consultation with the natural gas market participants, which ANRE submits for approval;
  - p) develop studies, programmes and works on the development of the natural gas transmission system;
  - q) Ensure capacity allocation in interconnection pipelines in compliance with Regulation (EC) No 715/2009;
  - r) ensure the application of congestion management rules, including interconnection pipelines, and capacity allocation rules on these pipelines;
  - s) organise and manage the gas balancing market;

ensure the measurement of natural gas from control-measurement-tendering stations for the take-up of natural gas from upstream pipelines or storage systems into the transmission system, as well as control-measurement-tendering stations for the take-over of natural gas to distribution systems, final customers or storage systems.

t) provide adequate means for discharging public service obligations;  
to preserve the confidentiality of commercially sensitive information which [was acquired in the course of its activities and prevents the discriminatory disclosure of information relating to its own activities which could lead to economic advantages; in particular, it shall not disclose any commercially sensitive information to the other parts of the economic operator unless it is necessary for the conclusion of a commercial transaction;

u) acquire the energy it uses to carry out its activities in accordance with transparent, non-discriminatory and market-based procedures.

(2) The transmission system operator shall have, in particular, the following rights:

a) levy non-discriminatory tariffs corresponding to the services provided, limit and/or discontinue the provision of the service, in accordance with specific regulations;

b) [The text of Article 130(2), point B. of Title II, Chapter V was repealed on 30-July-2020 by Article I, point 76 of Law 155/2020]

c) interrupt or limit the transport of natural gas while the safety and integrity of the transmission system are endangered in accordance with specific regulations;

d) interrupt the operation of the installations for the strictly necessary time, for the execution of maintenance and repair work, as well as in other situations required by law, with prior notice of the dispatchers of the affected systems and, where appropriate, the customers;

e) to develop technical/commercial/operational norms specific to its own activity and submit them to ANRE for approval;

f) develop objective, transparent and non-discriminatory draft regulations for physical balancing of the natural gas transmission system, including proposals for substantiating the tariffs to be paid by system users in case of physical imbalance, and submit them to ANRE for approval;

g) to store natural gas in the transmission system, subject to specific regulations approved by ANRE;

h) to use, free of charge, the public property occupied by the objectives related to the transport system, as well as the public property used for the works of execution, operation, maintenance and repair, including land forming part of the national forest fund, by way of derogation from the provisions of Art. 42 par. (1) letter b) of Law no. 46/2008 – Forest Code, as amended and supplemented;

i) manage the balancing market in order to ensure physical equilibrium and maintain within the operational parameters of the system, with the conduct of those trade operations; commercial records of such operations shall be kept separate from those relating to transport activity.

j) to participate in the trading of natural gas only for the activity of balancing the system, through sales – buying in the balancing market or other markets, in accordance with the regulations in force and the rules of ENTSO-G. Natural gas transactions shall be made on the basis of transparent and non-discriminatory procedures, through competitive mechanisms, in accordance with the regulations of the competent authority.

(3) The operation of pipelines for interconnection with non-Member States and the allocation of capacity therein shall be carried out in accordance with the provisions of the agreements with those States.

(4) The transmission system operator and the transmission system owner shall publish information on their own activities, necessary for system users, according to ANRE regulations, in order to ensure efficient access to the system, effective competition and efficient functioning of the natural gas market, not being allowed to disclose commercially sensitive information obtained during their activities,

including those obtained from third parties, in the context of granting access to the network.

(5) as a balancing market operator, the transmission system operator shall carry out the following activities with a view to informing interested parties:

- a) management of measurement equipment and provision of natural gas measurement services to transmission system users;
- b) the collection, centralisation and distribution of data and information to natural gas economic operators using the transmission system to conduct commercial operations with a view to managing imbalances between the quantities of natural gas contracted and those physically supplied;
- c) elaboration of forecasts of natural gas consumption of customers not benefiting from daily measurement;
- d) the production of reports and the provision of statistical data in accordance with the legislation in force.

Art. 1301: Obligations of the virtual trading point operator

(1) The transmission system operator of natural gas, as the operator of the virtual trading point, hereinafter referred to as the PVT operator, shall ensure the organisation and management of PVT under the license and regulations issued by ANRE.

(2) The PVT operator shall have the following tasks and responsibilities:

- a) offer natural gas market participants including services for transferring natural gas ownership in PVT under transparent and non-discriminatory conditions;
- b) make available to natural gas market participants the services referred to in point a), on a continuous basis, i.e. 24 h x 7 days/week, via an electronic online platform;
- c) record and continuously process PVT notifications related to transactions concluded by natural gas market participants registered as PVT users;
- d) ensures the connection of the electronic PVT service platform to the natural gas trading platforms;
- e) collaborate with centralised gas market operators to design and promote short-term standardised products leading to increased short-term wholesale gas market liquidity;
- f) actively participates in the public debates organised in order to consult the natural gas market participants and ANRE on the harmonisation of services offered in PVT with international standards and best practices;
- g) protect and preserve the confidentiality of the information and data which has been provided to him or which he has had access in the course of his work, except in cases expressly provided for by the legislation in force;
- h) may offer participants in the natural gas market other ancillary services necessary to PVT users, according to ANRE regulations;
- i) the PVT operator shall develop and publish, according to ANRE regulations, general, anonymous and aggregated market information of transactions notified in PVT.

Art. 131: Tasks of the transmission system owner

(1) Transmission system owner:

- a) cooperate with the transmission system operator to carry out its tasks by sharing all relevant information;
- b) finance investments decided upon by the independent system operator and approved by ANRE or agree to be financed by any interested party, including the independent system operator. The relevant financing measures shall be subject to approval by ANRE. Prior to approval, ANRE shall consult with both the asset owner and other interested parties;
- c) has responsibility for the assets of the transmission system, with the exception of liability for the tasks of the transmission system operator;
- d) provide guarantees to facilitate the financing of any extensions of the system, with the exception of

the investments for which it has given its consent to be financed by any interested party, including the transmission system operator, pursuant to point (b).

e) is not responsible for the work of granting or managing third party access to the transmission system organised by the independent system operator and for investment planning;

f) it preserves the confidentiality of commercially sensitive information it has obtained in the course of its activities and prevents the discriminatory disclosure of information relating to its own activities which could bring economic advantages. In particular, it shall not disclose any commercially sensitive information to the other parts of the economic operator unless it is necessary for the conclusion of a commercial transaction. The transmission system owner, including in the case of a combined system operator, the distribution operator and the remaining part of the economic operator, is prohibited from using common services, e.g. the use of a common legal service, with the exception of purely administrative or IT services.

(2) The Competition Council, in cooperation with ANRE, shall be empowered with all the necessary powers to effectively monitor the compliance of the transmission system owner with its obligations pursuant to paragraph 1.

(3) ANRE shall monitor the relations and exchanges of information between the transmission system owner and the independent system operator in order to ensure compliance by the latter with its obligations, and in particular shall approve draft contracts to be concluded between them and act as a dispute resolution authority between the independent system operator and the transmission system owner on complaints submitted by either of them, in accordance with Article 174(11).

Art. 132: Separation of transmission system owner

(1) Where the transmission system owner is part of a vertically integrated economic operator, the transmission system owner shall be independent at least in terms of its legal status, organisation and decision-making from other activities not related to the transmission of natural gas.

(2) In order to ensure the independence of the transmission system owner under the conditions of paragraph 1, the following criteria shall apply:

a) persons in the management of the transmission system owner may not be part of the structures of the integrated natural gas economic operator responsible, directly or indirectly, for the day-to-day management of natural gas production, distribution and supply activities;

b) persons with a management position within the transmission system owner shall act independently of any market interest in carrying out their duties;

c) the transmission system owner shall establish a compliance programme, which shall contain the measures taken to ensure that discriminatory practices are excluded and shall also lay down the specific obligations imposed on employees to achieve the independence objective;

d) the transmission system owner shall designate a person or body, called a compliance agent, to ensure adequate monitoring of compliance with the compliance programme and to submit a report to ANRE in December of each year on the measures taken, which shall be published on the transmission system operator's website.

(3) The transmission network owner shall submit for approval to ANRE all draft contracts to be concluded with the transmission system operator, including those related to the use of existing goods, as well as those made as a result of investments in the transmission network.

(4) Persons who have exercised within the transmission system operator management functions or other relevant functions under which they have had access to sensitive commercial information, as defined by law, may not hold similar functions within economic operators in the field of natural gas production and/or supply, for a period of at least 6 months from the date of termination of contractual relations with the transmission system operator.

Art. 133: Prohibitions on control of transmission system operators

Economic operators carrying out any of the activities of production or supply of natural gas shall be prohibited, directly or indirectly, from exercising control or exercising any right in respect of separate transmission system operators from other States of the European Union applying the provisions of Article 9(1) of Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 on common rules for the internal market in natural gas and repealing Directive 2003/55/EC.

Art. 134: Distribution of natural gas

- (1) The distribution of natural gas shall be carried out by the distribution operator.
- (2) The distribution system operator shall provide the distribution service to all distribution system users under non-discriminatory conditions, ensuring access to it to any applicant meeting the requirements of this Title, in compliance with the performance rules and standards laid down in the technical regulations in force.
- (3) The delimitation of a distribution system shall be carried out, as appropriate:
  - a) the production targets from the tap outside the manufacturer's adjustment-measurement-delivery station;
  - b) by the transmission system at the exit of the transmission operator's adjustment-measurement and surrender station;
  - c) by another distribution system from the outlet of the adjustment/measurement station between distribution operators;
  - d) by final customers from the exit from the adjustment/measurement stations/stations or, where appropriate, exiting from the connection tap to their use facilities.
- (4) The development, rehabilitation, modernisation, operation and maintenance of natural gas distribution objectives/systems, including connections and adjustment-measuring stations/regulation stations/measurement stations/regulation stations/regulation posts/measurement stations, connections, are public utility works.
- (5) The costs of the work referred to in paragraph 4 shall fall within the category of costs specified in Article 179(2)(i).

Art. 135: Nature of distribution activity

The activity of the distribution of natural gas, with the exception of that carried out through closed distribution systems, constitutes a service of public utility of general interest.

Art. 136: Independence of the distribution operator

- (1) Where the distribution operator is part of a vertically integrated economic operator, it must be independent, at least in terms of its legal form, organisation and decision-making, in relation to other activities not related to distribution; this rule does not create an obligation to separate ownership of the assets of the distribution operator from the vertically integrated economic operator.
- (2) In order to ensure the independence of the distribution operator which is part of a vertically integrated economic operator from the latter's other activities, the following criteria shall apply:
  - a) the persons managing the distribution operator may not form part of the vertically integrated operator structures responsible, directly or indirectly, for the management of natural gas production, transmission and supply activities;
  - b) taking appropriate measures to ensure that the professional interests of the persons responsible for the management of the distribution operator are taken into account in such a way as to ensure their independence from action;
  - c) the distribution system operator has the right to take effective decisions independently of the vertically integrated economic operator concerning the assets necessary for the operation, maintenance or development of the distribution system; in order to carry out these tasks, the distribution operator shall have at its disposal the necessary resources, including human, technical, financial and physical resources; this should not affect the existence of appropriate coordination mechanisms which must ensure that the economic and managerial supervisory rights of the parent with regard to the return on

assets by the subsidiary are protected; these arrangements will in particular allow the parent to approve the annual financial plan or any equivalent instrument of the distribution operator and to set the overall limits of indebtedness of the subsidiary; however, the parent shall not be allowed to give instructions on current operations or on individual decisions concerning the construction or modernisation of distribution system objectives which do not go beyond the terms set out in the approved financial plan or any equivalent instrument;

d) the distribution system operator shall establish a compliance programme, outlining the measures taken to ensure that any discriminatory behaviour is excluded and ensures that compliance with it is adequately monitored; this programme must also outline the specific obligations of employees in order to achieve this objective; the person or body responsible for monitoring the compliance programme, referred to as compliance agent, shall submit to ANRE and publish in December each year a report containing the measures taken; the compliance agent of the distribution operator shall be fully independent and shall have access to all information of the distribution operator or of any related economic operator that is necessary for the fulfilment of its task.

(3) Vertically integrated distribution operators shall not, in their communication and advertising activities, create confusion as to the separate identity of the supply subsidiary within the vertically integrated economic operator.

(4) No more than 100,000 final customers shall be exempted from the provisions of paragraphs 1 to 3.

#### Art. 137: Confidentiality obligation

(1) The distribution operator shall be obliged to maintain confidentiality of commercially sensitive information obtained in the course of its business.

(2) The distribution system operator is obliged to prevent discriminatory disclosure of information on its own activity, which can be commercially advantageous.

(3) Any interference, of any kind, between the vertically integrated distribution system operator with a supplier through which it can be commercially advantageous over other independent suppliers operating in the concession area shall be prohibited.

#### Art. 138: Obligations and rights of the distribution operator

(1) The natural gas distributor shall, in particular, have the following obligations:

a) operate, maintain, repair, modernise and develop the distribution system in safe, economic and environmental efficiency, activities to be carried out on the basis of specific authorisations for the design and execution of natural gas distribution systems and the operation to be carried out on the basis of the distribution licence;

b) to ensure the odourisation of natural gas corresponding to the regulations approved by ANRE, based on service contracts concluded with the upstream operator, and, where appropriate, by additional odourisation in the distribution system;

c) interconnect with other systems, where appropriate, and ensure long-term distribution system capacity;

d) to ensure third party access to distribution systems, under non-discriminatory conditions, within the limits of distribution capacities, in compliance with the technological regimes, according to the specific regulations developed by ANRE;

DX) to connect all applicants to the distribution system within 90 days from the date of obtaining the building permit, according to ANRE regulations. Recovery of the costs related to the connection of household customers shall be made through distribution tariffs according to ANRE regulations;

e) to draw up and monitor the incoming and outgoing natural gas balance, respectively;

f) avoid cross-subsidisation between categories of final customers with regard to cost sharing;

g) take over until obtaining the license for the operation of the distribution system by the new concessionaire, at the request and according to the ANRE regulations, by designation, the operation of a distribution system, provided that the original operator has been withdrawn from the distribution



license, the concession contract has been terminated or in any other situation identified by ANRE;

h) ensure the permanent balance of the system operated;

i) ensure safe conditions in the supply of natural gas;

L) to carry out activities related to the system operation, according to the specific regulations developed by ANRE, within the limits established by the validity conditions associated with the license; K) to develop and send ANRE for approval investment plans based on prospective studies, carried out for a minimum of 5 years, in consultation, as appropriate, with the transmission system operator and local authorities in the licensing area; prospective studies shall be submitted to ANRE at least 6 months before the start of a regulatory period.

(2) The natural gas distribution operator shall, in particular, have the following rights:

a) carry out commercial activities related to the natural gas distribution service;

b) collect the charges corresponding to the services provided, limit and/or discontinue the provision of the service, in accordance with specific regulations;

c) interrupt the operation of the objectives of the distribution system and the supply of natural gas to customers for the time strictly necessary for the execution of maintenance and repair work, as well as in other situations provided for in this Title or in case of force majeure, with prior notification of the dispatchers of the affected systems and, where appropriate, to customers;

d) use, free of charge, the local public property land occupied by the objectives of the distribution system, as well as for the execution, operation, maintenance and repair works, under the law;

e) [The text of Article 138(2), point E of Title II, Chapter V was repealed at 04-oct-2014 by Article I, point 71. of Law 127/2014]

f) stop the supply of natural gas to the installations for use where there is a danger of explosion and safety in operation is affected;

g) store natural gas in distribution systems, according to regulations approved by ANRE;

h) refuse to connect to the distribution system under the conditions of Article 150;

i) to develop technical/commercial norms specific to its own activity and submit them to ANRE for approval;

j) in case of interference by unauthorised persons on adjusting – measurement facilities at the property limit, which endanger the security of natural gas supply, the distribution operator is entitled to discontinue the supply, in accordance with the specific regulations of ANRE.

(3) Where a distribution operator is responsible for balancing the natural gas distribution system, it shall develop objective, transparent and non-discriminatory rules for balancing the system operated, including rules for charging system users in the event of an imbalance in the system. The conditions, including rules and charges, applicable to the provision of balancing services by the distribution operator shall be established in a non-discriminatory and cost-effective manner, in accordance with a methodology approved by ANRE, and shall be published.

Art. 139: Closed distribution system

(1) Closed distribution system shall be the system whereby natural gas is distributed in a geographically limited industrial, commercial or common service area and which, without prejudice to paragraph 4, does not supply domestic customers if, for reasons of technological organisation, the activities carried out by users of that system are integrated or that system provides gas mainly to the system owner, system operator or an economic operator affiliated thereto, as appropriate.

(2) The obligations relating to the development of the distribution system referred to in Article 138(1)(c), g) and

k) Not applicable to the operator of a closed distribution system.

(3) The tariffs for the provision of the distribution service from a closed distribution system and the methodologies underlying their calculation will be published by the economic operator performing this

activity on its own website. ANRE will publish a good practice guide on how to set tariffs for the distribution service in a closed distribution system.

(4) The exemption provided for in paragraph 2 shall also apply where in the area served by a closed distribution system domestic customers are placed only if they are in an employment relationship or in a form of association with the owner of the distribution system at the time of connection.

(5) [Article 139(5) of Title II, Chapter V, was repealed on 30-July 2020 by Article I, point 82 of Law 155/2020]

(6) At the request of an economic operator, ANRE shall confirm by decision the inclusion of a distribution system in the provisions of par. (1).

(7) Economic operators operating distribution systems falling within the provisions of paragraph 1 shall be entitled to provide the distribution service without a licence on the basis of the decision referred to in paragraph 6.

Art. 140: Storage of natural gas

(1) Gas storage shall be carried out by the storage operator.

(2) Natural gas shall be stored for the purpose of:

- a) ensuring security in the supply of natural gas to final customers;
- b) harmonising variations in seasonal, daily and timely consumption with available gas sources;
- c) ensuring permanent physical equilibrium of the TNS;
- d) carrying out other commercial activities.

Art. 141: Independence of storage operator

(1) A storage operator which is part of a vertically integrated economic operator shall be independent at least in terms of legal form, organisation and decision-making from other activities not related to transport, distribution or storage.

(2) The provisions of paragraph 1 shall apply only in respect of storage facilities which are technically and/or economically necessary to ensure efficient access to the system for the purpose of supplying customers in accordance with specific regulations.

(3) In order to ensure the independence of the storage operator from the vertically integrated economic operator of which it belongs and which carries out at least one of the production or supply activities, the following minimum criteria shall apply:

- a) the persons managing the storage operator may not be part of the structures of the vertically integrated economic operator responsible, directly or indirectly, for coordinating the production and supply of natural gas;
- b) appropriate measures must be taken to ensure that the professional interests of the managers of the storage operator are taken into account so as to ensure that they are able to act independently;
- c) the storage operator shall have sufficient decision-making powers, independently of the parent undertaking, as regards the assets necessary for the operation, maintenance or development of storage facilities; this shall not prevent the existence of appropriate coordination mechanisms to ensure that the rights of economic supervision and supervision of the management of the parent company are protected against the return on assets of a subsidiary; the parent undertaking shall be entitled to approve the annual financial plan of the storage operator or any equivalent document and to set overall limits to the level of indebtedness of its subsidiary; the parent shall not be entitled to give instructions on day-to-day management, nor on individual decisions relating to the construction or modernisation of storage facilities which do not exceed the limits of the approved financial plan or any equivalent document;
- d) the storage operator shall establish a compliance programme containing the measures taken to ensure that discriminatory practices are excluded and shall also set out the specific obligations imposed on employees to achieve the independence objective;
- e) the storage operator shall designate a person or body, designated a compliance agent, to ensure

adequate monitoring of compliance with the compliance programme and which shall submit to the competent authority in December of each year a report on the measures taken, which shall be published on the storage operator's website.

Art. 142: Obligations and rights of the storage operator

(1) The storage operator shall, in particular, have the following obligations:

- a) operate, maintain, rehabilitate and modernise surface technological facilities for safe, efficient and environmental storage storage facilities;
- b) to ensure third party access to storage deposits, based on objective, transparent and non-discriminatory criteria, according to ANRE regulations;
- c) publish the list of storage facilities or parts thereof which are offered for access to third parties;
- d) provide information to users of the storage system necessary for efficient access to the system;
- e) to develop and submit NERAs for approval of investment plans based on prospective studies, carried out for a minimum of 5 years, in consultation with the transmission system operator, as appropriate, and shall be notified by the relevant ministry; prospective studies shall be submitted to ANRE at least 6 months before the start of a regulatory period;
- f) provide adequate means for discharging public service obligations.

(2) The storage warehouse operator shall have, in particular, the following rights:

- a) collect the tariff for the provision of the underground gas storage service, limit and/or discontinue the provision of the service in accordance with specific regulations;
- b) to develop technical/commercial norms specific to its own activity and submit them to ANRE for approval;
- c) interrupt the operation of the installations for the strictly necessary time, for the execution of maintenance and repair work, as well as in other situations required by law, with prior notice of the dispatchers of the affected systems and, where appropriate, the customers;
- d) rightly refuse access by third parties to storage warehouses under the law.

(3) The storage operator shall maintain the confidentiality of commercially sensitive information which it has acquired in the course of its business and prevents the discriminatory disclosure of information relating to its own activities which could lead to economic advantages. In particular, it shall not disclose any commercially sensitive information to the other parts of the economic operator unless it is necessary for the conclusion of a commercial transaction.

Art. 143: Obligations and rights of the natural gas supplier

(1) The supplier of natural gas shall, in particular, have the following obligations:

- a) conclude contracts for the purchase of natural gas on competitive, transparent and non-discriminatory terms so as to ensure that consumption is covered for its customers; AX)to purchase the natural gas it supplies to household customers, under conditions of minimising the cost of the resources allocated, on the basis of their own procedures, drawn up in conjunction with the provisions of Article 177(315),(316) and (317), ensuring the transparent nature of the natural gas procurement process and, at the same time, the equal and non-discriminatory treatment of persons participating in the natural gas procurement procedure as bidders;
- b) pay for the natural gas purchased in accordance with the contracts concluded;
- c) [Article 143(1), point C. of Title II, Chapter V, was repealed on 01 July 2020 by Article I, point 4. of the Emergency Ordinance 106/2020]
- d) comply with the performance standards for natural gas supply activity;
- e) to make available to final customers the relevant consumption data promptly and free of charge, using at their request the comprehensible, nationally harmonised presentation format established by ANRE;

- f) set up single contact points to inform final customers of their rights, existing legislation and dispute settlement procedures in case of applications, complaints, complaints, complaints or appeals. The single point of contact shall consist of a central point coordinating regional/local information points, where appropriate, forming a network that provides free of charge to final customers all necessary information on their rights, existing legislation and dispute settlement pathways at their disposal in the event of a disagreement, ensuring immediate access to information for all applicants;
- g) to allow customers, free of charge, the actual switching of the natural gas supplier within 21 days of the date of the request and to send them a final winding-up account no later than 42 days after the change of supplier;
- h) conclude contracts with final customers providing for fair contractual conditions and at least the information referred to in Article 145 (4) (b) and send a copy of the contract free of charge to the final customer before concluding or confirming its conclusion. Where the contract is concluded through intermediaries, the information referred to in Article 145 (4) (b) shall also be provided before the conclusion of the contract;
- i) notify final customers accordingly of any intention to amend the contract terms, and any increase in the price/tariff, as appropriate, directly and in a timely manner, but not later than the end of the first normal invoicing period following the entry into force of the increase in a transparent and understandable manner;
- j) inform final customers at the time of the notification referred to in point (i) of the right to terminate the contract if they do not accept the new conditions notified;
- k) provide transparent information to final customers on prices/tariffs, where appropriate, as well as on the general conditions for access to and use of the services provided by it;
- l) provide final customers with a wide range of payment arrangements which do not create unjustified discrimination between customers. Early payment schemes must be fair and adequately reflect likely consumption. Any difference in terms and conditions of payment schemes shall reflect the costs incurred with these different payment systems. The general conditions must be fair and transparent, presented in clear and understandable language, and do not include non-contractual barriers to the exercise of clients' rights, such as excessive contractual documentation;
- m) [The text of Article 143(1), point M. of Title II, Chapter V was repealed on 30-July-2020 by Article I, point 85 of Law 155/2020]
- n) provide final customers with a high standard of service and complaint handling;
- o) inform customers connected to the objectives/systems in the natural gas sector of their rights to be supplied with natural gas of specified quality, at reasonable prices, in accordance with the legal provisions in force;
- p) inform the final customers accordingly of their actual consumption of natural gas and of their actual costs frequently enough to enable them to adjust their own gas consumption. This information shall be communicated at appropriate intervals, taking into account the capacity of the final customer's measuring equipment and the cost-benefit ratio of such measures, without charging additional costs to final customers;
- q) to constitute in underground storage a minimum stock of natural gas at the level necessary to ensure continuity in the supply of natural gas to its customers and price bearingability by them, in accordance with the legal provisions in force;
- q) [The text of Article 143(1), point Q of Title II, Chapter V was repealed on 01-July 2020 by Article I, point 4. of the Emergency Ordinance 106/2020]
- r) do not unilaterally denounce gas supply contracts concluded with final customers.
- s) in the case of domestic customers located more than 50 km from the single point of contact, the information to the final customers must be made through written notifications or the manner of

communication agreed with it. In case of changes to the contractual conditions the notification shall be made in writing, with acknowledgement of receipt, at least 30 calendar days before the date on which the amendments take effect, specifying the customer's right to terminate the contract if he does not accept the new contractual conditions.

The supplier is obliged not to use incorrect or misleading commercial practices in relation to the final customer.

(2) The natural gas supplier shall, in particular, have the following rights:

- a) collect the amount of natural gas supplied, according to contracts concluded with customers;
- b) collect the value of natural gas supplied as a last resort, according to ANRE regulations;
- c) limit and/or stop the supply of natural gas to customers under the terms specified in the contracts.

(3) [The text of Article 143(3) of Title II, Chapter V was repealed on 01 July 2020 by Article I, point 5. of the Emergency Ordinance 106/2020]

Art. 144: Obligations of the supplier of last resort

(1) The supplier of last resort is obliged to ensure the supply of natural gas to final customers, in accordance with ANRE regulations, at prices regulated by ANRE.

(2) The supplier of last resort has the obligation to supply, according to the regulations issued by ANRE, natural gas to the final customers whose supplier is in a position to withdraw its supply license during the course of the business or in any other situation identified by ANRE in which the final customers did not ensure the supply of natural gas from any other source.

Article 144 \*: Natural gas trader

The natural gas trader shall, in particular, have the following obligations:

- a) carry out sales/purchase activities exclusively on the wholesale market of natural gas, in accordance with the provisions of this Law, on the basis of commercial contracts concluded in a transparent, non-discriminatory and competitive manner, import/export contracts, in compliance with the trading rules applicable according to ANRE regulations;
- b) do not use unfair or misleading commercial practices;
- e) ensure the reporting of data on the activity carried out on the sale/purchase of natural gas, in accordance with the legal provisions in force;
- d) ensure the supply of natural gas in compliance with the conditions imposed by licences, contractual clauses and regulations in force;
- e) to submit reports to ANRE according to the regulations in force;
- f) if it carries out other activities on the natural gas market, it is obliged to ensure accounting separation, according to the legal norms and regulations of ANRE;
- g) comply with the regulations and conditions established by the license granted by ANRE;
- h) trade in natural gas in accordance with Article 177.

Art. 145: Obligations and rights of the final gas customer

(1) Final customers are obliged to pay invoices representing the value of the services provided by the system provider/operator, within the time period and under the conditions laid down in the contract concluded with it.

(2) For failure to fulfil contractual obligations other than the obligation to pay the final customer, the guilty party shall pay the other party damages until full coverage of the damage caused, in accordance with the provisions laid down in the contract.

(3) In the case of intervention on a natural gas system, including an installation for use, which endangers security of natural gas supply, the system/installation operator shall be entitled to discontinue the supply, in accordance with the specific regulations of ANRE. In case of finding, according to the legal provisions in force, of actions designed to distort in any way the indications of the measuring equipment or to evade natural gas by bypassing the measuring equipment, the supplier is

entitled to require the final customer to provide financial guarantees for a period of consumption equivalent to a maximum of one year. The refusal to provide these guarantees entitles the supplier to request the transmission/distribution operator to interrupt the supply of the final customer.

(4) Final gas customers shall have the following rights:

- a) have access to natural gas objectives/systems under the law and be informed, when connected to them, of their rights to be supplied with natural gas of specified quality, at reasonable prices, in accordance with the legal provisions in force;
- b) without prejudice to Law no. 193/2000, republished, as amended and supplemented, and Government Emergency Ordinance no. 34/2014, to conclude with the natural gas supplier a contract providing for fair contractual conditions/clauses and containing at least the following information:
  - (i) the identity and address of the supplier;
  - (ii) the services offered, the quality of the services offered and the time limit for starting the contract, i.e. the time limit for starting the initial gas supply, where appropriate;
  - (iii) types of maintenance services offered, where appropriate, by contract;
  - (iv) the means by which up-to-date information can be obtained on all applicable prices/tariffs, including maintenance, as appropriate;
  - (v) the duration of the contract, the conditions for renewal/extension and interruption of services and contract and whether the right to terminate the contract is recognised free of charge;
  - (vi) any compensation/compensation and the method of reimbursement applicable in the event of non-compliance with the quality of the services provided for in the contract, including in the case of inaccurate and delayed invoicing;
  - (vii) the modalities for initiating dispute resolution procedures in accordance with point j);
  - (viii) information on customer rights, including on the handling of complaints and all information referred to in (b) clearly communicated via invoices or websites of such economic operators;
- c) receive free of charge from the natural gas supplier a copy of the contract containing at least the information referred to in (b) before its conclusion or confirmation. Where the contract is concluded through intermediaries, the information referred to in (b) shall also be received before the conclusion of the contract;
- d) require the system provider/operator to amend and complete the contract concluded with him, when new elements appear or when he deems it necessary to detail or supplement contract terms, in accordance with the legal provisions in force;
- e) be duly notified of any intention to amend the contract and of any price/tariff increase, in a direct and timely manner, but not later than the end of the first normal invoicing period following the entry into force of the increase, in a transparent and understandable manner, and to be informed, at the time of notification, of the right to terminate the contract if they do not accept the new conditions;
- f) terminate the contract if it does not accept the new conditions notified by the natural gas supplier;
- g) they should be provided with a wide range of payment arrangements enabling them to fulfil their invoice payment obligations, contractual payment obligations and which do not create unjustified discrimination between customers. Early payment schemes must be fair and adequately reflect likely consumption. In the case of the domestic customer, if the amount paid by the household customer in excess of 100 lei, the supplier is obliged to repay the amount paid by the customer within 5 days from the date of issuance of the regularisation invoice. Amounts below this amount will be compensated in the account of the following invoices. Any difference in terms and conditions of payment schemes shall reflect the costs incurred by the supplier for the different payment systems. General conditions must be fair and transparent, presented in clear and understandable language, and should not include non-contractual barriers to the exercise of customers' rights, such as excessive contractual documentation. Customers are protected against unfair or misleading commercial practices;

h) to change its supplier free of charge, in compliance with the contractual conditions/clauses, within 21 days from the date of the request, according to a procedure approved by ANRE, which determines mainly the stages of the process of switching, the method of extinguishing the payment obligations due by the final customer to the supplier to be exchanged, the data that may be requested by the final customer or the new supplier in the change process, as well as the system operators that are obliged to provide them;

i) receive a final winding-up statement, after the change of natural gas supplier, within 42 days of the switching of supplier;

j) have transparent, simple and lowest complaint-solving procedures. All final customers are entitled to a high standard of service and complaint handling by their natural gas supplier. Such out-of-court dispute resolution procedures must allow for a fair and timely resolution of disputes within a maximum of 90 days and, in all justified cases, provide for a system of reimbursement and/or compensation; such procedures should, where possible, comply with the principles set out in Recommendation 98/257/EC; these procedures shall be developed in compliance with a framework procedure issued by ANRE;

k) receive transparent information on applicable prices/tariffs as well as on the general conditions for access and use of services offered by the natural gas supplier;

l) require the supplier to interrupt the supply of natural gas where the interruption is linked to the safe operation of the end customer's or system operator's installations;

m) require the supplier/system operator, when technical deficiencies are detected, to take measures to ensure safety parameters in the supply of natural gas;

n) require and receive penalties incurred by the system provider/operator for failure to fulfil obligations, in accordance with the provisions of performance standards;

o) require and receive, without additional costs for this service, all relevant data on its own consumption or to empower any licensed supplier, on the basis of an explicit and free agreement, to have access to the measurement data, the system operator responsible for managing such data being required to provide it. ANRE ensures access to the consumption data of final customers, establishing, for optional use, a format for presenting such data, easily understandable, harmonised at national level, as well as the way of accessing final customers and suppliers to them;

p) be properly informed of their actual consumption of natural gas and of their actual costs frequently enough to be able to adjust their own gas consumption. This information shall be communicated by the supplier at appropriate intervals, taking into account the capacity of the final customer's measuring equipment and the cost-benefit ratio of these measures, without the latter charging additional costs for this service to final customers.

(5) Final customers participating in the wholesale gas market have the right to sell natural gas only in order to effectively balance their own portfolio, according to ANRE regulations.

Art. 146: Obligations and rights of the natural gas market operator

(1) The natural gas market operator shall be the licensed legal person managing the centralised gas markets, with the exception of the balancing market, for short, medium and long-term gas trading, in accordance with the regulations issued by the competent authority.

(2) The natural gas market operator shall not be allowed to disclose the information relating to the natural gas transactions it has obtained during its activity, other than under the law.

(2<sup>o</sup>) In order to obtain a license for carrying out the activity of managing the centralised natural gas markets, the applicant shall:

a) have IT systems and applications capable of organising and managing the wholesale centralised gas markets defined by this Law;

b) ensure the separation of the licensed activities through management accounting, carried out by means of a specialised integrated computer application;

c) provide evidence of certification of information systems used in accordance with an international

standard containing the requirements for an information security management system so as to confirm the organisation's capability to assess information security risks and to implement control measures to ensure confidentiality, integrity and availability of information;

- d) provide evidence of certification of the management system used in accordance with an international standard demonstrating its ability to provide products and services meeting both customer requirements and applicable legal and regulatory requirements;
- e) provide evidence of a valid contract with an independent auditor for auditing financial statements;
- f) make publicly available information on the annual financial statements and the auditors' report;
- g) to submit reports to ANRE according to the regulations in force;
- h) comply with the regulations and conditions established by the license granted by ANRE.

(22) The operators of the centralised natural gas markets are obliged to obtain licensing under the terms of paragraph (21)<sup>and</sup> in accordance with ANRE regulations; otherwise, the current licences shall cease to be valid.

(3) Prices established on centralised natural gas markets shall be made public according to ANRE regulations.

#### Chapter VI: Access and connection to the network

Art. 147: System of third party access to the network

Third parties' access to upstream supply pipes, transmission systems, storage warehouses, LNG systems and natural gas distribution systems shall be carried out on a regulated basis.

Art. 148: Regime of connection to natural gas targets

(1) The connection of third parties as system users to upstream supply pipes, transmission systems, LNG installations/terminal and natural gas distribution systems shall be carried out in accordance with the specific regulations developed by ANRE.

(2) Connection to upstream supply pipes and the transmission system shall be permitted for the following categories of applicants:

a) holders of concession contracts for the public gas distribution service in order to fulfil their contractual obligations in that capacity;

The administrative-territorial<sup>units</sup> or their specialised services to which the attributes of the concession of the public gas distribution service have been delegated;

b) LNG terminal operators;

c) operators of underground storage of natural gas;

d) industrial customers with an annual consumption of more than 150,000 MWh;

e) economic operators holding the distribution licence;

f) natural gas producers;

g) [The text of Article 148(2), point G. of Title II, Chapter VI was repealed on 20-dec-2014 by Art. 1, paragraph 1. of Law 174/2014]

(3) The distribution operator shall ensure the financing and execution of the design and execution of the installation for extension and branching of the non-household final customer, the length of which will be up to 2.500 meters in the territory of the administrative-territorial unit for which the public distribution service concession, the consideration of which will be recognised in the tariff by ANRE. The deadline for the connection is not more than 90 days from the date of obtaining the building permit.

(4) The applicant, the future non-household final customer, is obliged to use the place of consumption and keep its destination for a period of 5 years from the date of putting into service of the connection installation.

(5) If the non-household final customer does not comply with the provisions of paragraph 4, he shall be obliged to return to the distribution operator the value of the design and execution of the connection



installation, in proportion to the remaining unused period, in accordance with the regulations adopted by ANRE.

Art. 149: Refusal of access

(1) Refusal of third parties' access to natural gas objectives/systems may be made in the following situations:

- a) the objective/system capacity is insufficient;
- b) access to the system hinders the fulfilment of public service and operational safety obligations;
- c) access to the system may lead to serious economic and/or financial difficulties related to take-or-pay contracts for the licence holder/authorisation requested access;
- d) the quality of natural gas to be introduced into systems and/or warehouses does not meet the requirements of the regulations in force.

(2) Refusal of access to the system shall be materialised in a document called 'Refusal of Access', which must contain the reasons for the refusal.

Art. 149I: Derogations on payment commitments entered into in take or pay contracts

(1) Where a natural gas economic operator faces or considers to be experiencing serious economic and financial difficulties due to payment commitments entered into under take or pay contracts accepted by one or more of its natural gas purchase contracts, it may apply to ANRE for a temporary derogation from the provisions of Articles 147 and 148.

(2) The request for derogation may be submitted to ANRE either before or after the refusal of access to the system, if the natural gas economic operator refused access to the system, the request shall be submitted immediately.

(3) The application shall be accompanied by all relevant information on the nature and importance of the problem, as well as on the efforts made by the economic operator to solve the problem.

(4) The decision on the request for derogation relating to take or pay contracts concluded before 4 August 2003 should not lead to situations which make it impossible to find economically viable alternative outlets.

(5) The application shall not be accepted if natural gas sales do not fall below the level of minimum demand guarantees included in take or pay gas purchase contracts or to the extent that such contracts can be adapted, i.e. the natural gas economic operator is able to find alternative outlets.

(6) ANRE analyses the request for derogation taking into account the following criteria—

- a) the objective of achieving a competitive gas market;
- b) the need to fulfil public service obligations and to ensure security of supply;
- c) the market position of the natural gas economic operator and the real situation of competition in that market;
- d) the seriousness of the economic and financial difficulties faced by natural gas economic operators and the transmission system operator or eligible customers;
- e) the dates of signature and the terms of the contract or contracts concerned, including the extent to which they take account of changes in the market;
- f) the stagecoachs submitted to solve the problem;
- g) the extent to which, in the event of acceptance of the payment commitments in question entered into under take or pay contracts, the economic operator could reasonably have foreseen, taking into account the provisions of this Law, the possibility of serious difficulties;
- h) the degree of connection of the system with other systems and the degree of interoperability of such systems;
- i) the effects that granting a derogation would have on the correct application of the provisions of this Law on the proper functioning of the internal market in natural gas.

(7) Where there are no reasonable alternatives and, in view of the criteria referred to in paragraph 6, ANRE may decide to grant a derogation.

(8) ANRE shall immediately notify the European Commission of the decision to grant the derogation, providing, in a consolidated form, all relevant information concerning that derogation.

(9) If the European Commission asks ANRE to amend or withdraw the decision granting the derogation, it shall comply within 28 days.

(10) Any derogation granted under the above provisions shall be duly substantiated and published in the Official Journal of the European Union.

(11) Natural gas economic operators which have not been granted a derogation within the meaning of this Article shall not refuse or continue to refuse access to the system because of payment commitments entered into under take gas purchase contracts or  
it's a pay

Art. 150: Refusal of connection

Refusal of connection to natural gas objectives/systems may be made in the following situations:

- a) the objective/system capacity is insufficient;
- b) there are no targets/pipes component parts of the systems to which the connection is to be achieved;
- c) [Article 150, point C. of Title II, Chapter VI was repealed on 30-July 2020 by Article I, point 92 of Law 155/2020]

Art. 151: Financing of work to achieve the objectives/conductors necessary for connection

(1) The distribution operator or the transmission system operator may not refuse connection to the system and shall be obliged to finance the works to achieve the objectives/pipes necessary to connect consumers within the administrative-territorial unit for which the public distribution service has been leased. The term of extension and/or connection of consumers may not exceed 90 days from the date of obtaining the building permit.

(2) In the performance of the concession contract, at the request of local or central public administration authorities, based on regional or local development and urban development plans, the distribution operator shall be obliged to ensure the development of distribution systems and the financing for the extension of distribution systems/establishment of systems in the concession area.

(3) In order to develop the programs of natural gas supply to localities and to extend/establish the natural gas distribution systems, the local public administration authorities and the ministries involved will respond within 60 days of receiving the requests of the transmission system operator and the distribution operators, for the implementation of medium and long-term system development plans.

(4) The transmission system operator has an obligation to achieve and operate the necessary objective/conductor/necessary to the connection of the distribution system within 180 days from the date of signature of the contract for the achievement of the objective/pipe.

Art. 152: Direct buses

(1) [The text of Article 152(1) of Title II, Chapter VI was repealed on 30-July 2020 by Article I, point 94 of Law 155/2020]

(E)[the text of Article 152(1A1) of Title II, Chapter VI was repealed on 30 July-2020 by Article I, point 94 of Law 155/2020]

(2) In justified circumstances, ANRE shall issue authorisations for the establishment of a direct line to allow:

- a) suppliers licensed by ANRE to supply natural gas to eligible customers supplied from a direct bus;
- b) the supply of natural gas by a licensed supplier by ANRE to any such eligible customer through a direct bus.

(3) The direct line is fully funded by and owned by applicants.

(4) The transparent and non-discriminatory criteria for granting authorisations to establish, as well as the operating conditions of the direct bus, shall be approved by ANRE.

The holder of a direct line has the obligation to ensure access and connection to it, without changing the destination for which these goods were built, according to ANRE regulations.<sup>(42)</sup>The direct master made under the terms of par. (2) and the assets resulting under the terms of par. (41)<sup>shall be taken</sup> into service within 60 days from the date of the concession by the concessionary distribution operator, with the payment of a fair compensation, in accordance with the ANRE regulations.

(5) Design/Execution/Operation of direct masters shall be done according to technical norms specific to upstream/transport/distribution pipe systems, as appropriate.

Art. 153: Resolution of system access divergences

(1) In order to settle the differences in access to the system by administrative-legal way, a specialised commission shall be established within ANRE.

(2) The organisation and functioning of the commission referred to in paragraph 1 shall be carried out on the basis of a regulation approved by ANRE.

(3) The Commission referred to in paragraph 1 shall take a decision within 60 days of receipt of the complaint.

(4) The decision of the commission referred to in par. (3) shall be final, shall be binding on the parties and may be challenged in accordance with the Law on Administrative Complaint No. 554/2004, with subsequent amendments and additions.

#### Chapter VII: General provisions for liquefied natural gas (LNG)

Art. 154:

[The text of Article 154 of Title II, Chapter VII was repealed on 19-July 2018 by Article I, point 57 of Law 167/2018]

Art. 155:

[The text of Article 155 of Title II, Chapter VII was repealed on 19-July 2018 by Article I, point 58 of Law 167/2018]

Art. 156: Regulation of the use of LNG and hydrogen

(1) The overall regulatory framework for LNG and hydrogen shall be established by ANRE.

(2) ANRE develops technical and commercial regulations on terminal operation LNG/hydrogen, as well as the related pricing methodology, within 6 months of receiving an application for authorisation to achieve a LNG/hydrogen terminal.

(3) Tariffs for services provided by the LNG/hydrogen terminal operator, including LNG/hydrogen storage facilities, in connection with the operation of the terminal shall be established by the respective economic operator, based on a methodology approved by ANRE, and shall be published on the operator's own website.

(4) ANRE establishes the conditions and standards for the implementation of hydrogen injection plants in the existing transmission/distribution networks of natural gas.

Art. 156<sup>1</sup>: LNG installations

(1) Liquefaction of natural gas, discharge, storage and regasification of LNG shall be carried out by the operator of LNG storage terminal(s).

(2) LNG shall be used for the purpose of:

a) carrying out commercial activities;

b) ensuring security in the supply of natural gas to final customers;

c) harmonising variations in seasonal, daily and timely consumption with other available gas sources.

Art. 156<sup>2</sup>: Obligations and rights of the LNG terminal operator

(1) The LNG terminal operator shall, in particular, have the following obligations:

a) operate, maintain, rehabilitate and modernise the surface technological installations related to the LNG terminal in safe, efficient and environmentally sound conditions;

b) to ensure third party access to the LNG terminal, based on objective, transparent and non-

discriminatory criteria, according to ANRE regulations;

BX) to ensure the connection of third parties to the LNG/hydrogen terminal, based on objective, transparent and non-discriminatory criteria, according to ANRE regulations;

- c) publish the list of LNG facilities or parts thereof which are offered for access to third parties;
- d) provide LNG terminal users with information necessary for efficient access to the system;
- e) to develop and submit to ANRE for approval investment plans based on perspective studies carried out for a minimum of 5 years, through consultation, as appropriate, with the transmission system operator; prospective studies shall be submitted to ANRE at least 6 months before the start of a regulatory period; investment plans are reviewed in the light of the emergence of national or European programmes to promote new energy efficiency technologies and promote renewable energy systems;
- f) provide adequate means for discharging public service obligations;
- g) preserves the confidentiality of commercially sensitive information which it has obtained in the course of its activities and prevents the discriminatory disclosure of information relating to its own activities which could lead to economic advantages; do not disclose any commercially sensitive information to the other parts of the economic operator unless it is necessary for the conclusion of a commercial transaction.
- h) to propose ANRE technical, commercial and tariff methodologies specific to its own activity.

(2) The LNG terminal operator shall mainly have the following rights:

- a) collect tariffs for services rendered in connection with the operation of the LNG/hydrogen terminal, including LNG/hydrogen storage facilities, to limit and/or discontinue the provision of services in accordance with specific regulations;
- b) [The text of Article 156A2 paragraph (2), point B. of Title II, Chapter VII was repealed on 30 July-2020 by Article I, point 102 of Law 155/2020]
- c) interrupt the operation of LNG facilities for the strictly necessary time, for the execution of maintenance and repair work, as well as in other situations required by law, with prior notification of the dispatchers of the affected systems and, where appropriate, to customers;
- d) rightly refuse access by third parties to the LNG terminal under the law.

(3) The LNG terminal operator shall publish information on its own activities necessary for system users/access applicants, according to ANRE regulations, in order to ensure efficient access to the system, effective competition and efficient functioning of the natural gas market, not allowing them to disclose commercially sensitive information obtained during their activities, including those obtained from third parties in the context of granting access to the network.

Art. 157: LNG authorisation regime

Economic operators and/or individuals carrying out LNG design, execution and exploitation activities shall hold authorisations/licenses issued by ANRE on the basis of specific regulations.

Chapter VIII: Assurance of quality of equipment, installations, appliances, products and procedures used in the natural gas sector

Art. 158: Use of equipment, plants, appliances, products and processes in the natural gas sector

(1) The use of equipment, installations, appliances, products and processes in the natural gas sector is allowed after obtaining the prior acceptance of the system operator, based on methodologies/procedures developed by him and approved by ANRE.

(2) ANRE ensures the transparency of this process by publishing methodologies/procedures approved on its website.

Art. 159: Smart Measurement Systems

(1) By September 3, 2012, ANRE shall assess the implementation of intelligent measurement systems that contribute to the active participation of consumers in the gas supply market, in terms of long-term costs and benefits for the market and for individual consumers, the type of smart metering, and the

feasible implementation deadlines.

(2) Provided that, through the assessment referred to in paragraph 1, it is found that the implementation of intelligent measurement systems is beneficial for the functioning of the natural gas market, ANRE shall develop, in consultation with the distribution and transmission operators, and approve an implementation timetable, with due regard for the use of appropriate standards and best practices, as well as the importance of the development of the natural gas market.

Art. 160: Verification of projects

(1) Prior to the execution of the works for the objectives/systems in the natural gas sector, in order to comply with the requirements regarding quality in construction, the economic operators exploiting the respective objectives/systems shall have the obligation to ensure that the execution projects are verified by project verifiers certified by ANRE.

(2) Projects related to the execution/modifications of utilisation facilities shall be verified by verifiers certified by the Ministry of Public Works, Development and Administration.

(3) Projects shall be deemed to be approved if they have been declared in conformity by the project verifier:

a) as referred to in paragraph 1, for natural gas objectives/systems;

b) as referred to in paragraph 2, for natural gas installations.

Art. 161: Attestation of project verifiers

(1) The attestation of project verifiers referred to in Art. 160 par. (1) shall be made according to a regulation approved by ANRE.

(2) Project verifiers who have been certified by other institutions shall retain their powers by equivalence of the attestation in accordance with the Regulation referred to in paragraph 1.

(3) Attested project verifiers shall jointly and severally respond to the designers for ensuring by design all the technical and quality requirements laid down by the legislation in force, with a view to the safe implementation and operation of the project, as well as for any modifications to the project during implementation.

Art. 162: Reception of works

(1) The reception of natural gas objectives/systems shall be carried out by specialists, installers authorised by ANRE, employees of licensed economic operators who followed their execution, according to the specific technical norms.

(2) The reception of natural gas installations belonging to final consumers shall be carried out by the beneficiary of the work and by the specialists of the economic operator authorised by ANRE who carried out the respective work, according to the specific technical norms.

Art. 163: Expertise of the works

(1) The objectives/systems in the natural gas sector shall be subject, as appropriate, to technical expertise by authorised experts, according to a regulation approved by ANRE.

(2) Experts who have been certified by other institutions shall retain their powers by equivalence of the attestation in accordance with the Regulation referred to in paragraph 1.

#### Chapter IX: New Infrastructure Art.

164: Derogation conditions for new infrastructures

(1) New major gas infrastructures, such as interconnections between Member States, LNG facilities and storage facilities, may benefit from a derogation for a specified period of time, upon request, from the provisions of the legislation in force on third parties' access to transmission, storage and upstream supply pipes, as well as from charging methodologies, under the following conditions:

a) the investment must strengthen competition in the supply of natural gas and improve security of supply;

b) the level of risk linked to the investment shall be such that the investment is made only if a derogation is granted;

- c) the infrastructure must be owned by a legal person which is separated at least with regard to its legal form from the system operators in whose systems the infrastructure is built;
- d) charges shall be levied for users of the infrastructure concerned;
- e) the derogation shall not adversely affect competition, the efficient functioning of the internal gas market or the efficient functioning of the regulated system to which the infrastructure is connected.

(2) The provisions of paragraph 1 shall also apply to significant increases in capacity of existing infrastructures and to changes in such infrastructure enabling the development of new sources of gas supply.

Art. 165: Granting of derogations

ANRE shall decide on granting the derogation provided for in Article 164, by taking a duly reasoned decision. The ANRE decision shall be published in the Official Gazette of Romania, Part I.

Art. 166: Type of derogation

The derogation may cover all or part of the new infrastructure, existing infrastructure with significantly increased capacity or modification of existing infrastructure.

Art. 167: Conditions for granting the derogation

When deciding to grant a derogation, account shall be taken, where appropriate, of the need to impose conditions relating to the duration of the derogation and non-discriminatory access to the interconnection pipeline.

Art. 168: Conditions for granting derogation in the case of an interconnection pipeline

When deciding on the conditions laid down in Article 170, the duration of the contracts, the additional capacity to be constructed or the modification of the existing capacity, the time horizon of the project and the national conditions shall be taken into account.

Art. 169: Rules and mechanisms for capacity management and allocation

When granting a derogation, ANRE may decide on the rules and mechanisms for managing and allocating capacity, if they do not impede the implementation of long-term contracts.

Art. 170: Consultation with other Member States or regulatory authorities

In the case of an interconnection pipeline, any decision derogating shall be taken after consultation with the other Member States or, where appropriate, with the regulatory authorities or the Energy Regulators Cooperation Agency – ACER.

Art. 171: Submission of requests for derogation

The regulatory authority shall, without delay, send to the European Commission a copy of all requests for derogation as soon as they are received. The derogation decision shall be communicated without delay by ANRE to the European Commission, together with all relevant information.

2. ANRE shall comply with the decision of the European Commission amending or withdrawing the derogation decision within 30 days and shall notify the European Commission thereof.

Art. 172: Relevant information

The information referred to in Article 171 shall contain, in particular:

- a) the detailed reasons on the basis of which the regulatory authority or Member State granted the derogation, including the financial information justifying the need;
- b) analysis of the effect on competition and the efficient functioning of the internal market in natural gas resulting from the granting of the derogation;
- c) the reasons for the time period and part of the total capacity of the natural gas infrastructure concerned for which the derogation was granted;
- d) where the derogation relates to an interconnection pipeline, the result of consultation with the Member States concerned or with the regulatory authorities;
- e) the contribution of infrastructure to the diversification of natural gas supplies.

Chapter X: Public service obligation Art. 173:

Public service obligation

- (1) Holders of licenses for storage, transmission, distribution and supply of natural gas and the holder of the license to operate the LNG terminal shall carry out their activities in compliance with the obligations stipulated in the licenses, namely the authorisations issued by ANRE, regarding safety, quality, continuity of supply, energy efficiency, in compliance with the safety and health standards of work and environmental protection, as well as the provisions of direct contracts with customers.
- (2) ANRE may establish by specific regulations public service obligations for each natural gas activity applicable to all licence holders, or authorisations in a transparent, equidistant and non-discriminatory manner.
- (3) The public service obligations referred to in paragraph 2 shall not prevent the liberalisation of the natural gas market, constitute barriers to the entry of new market operators or distort competition and the transparent functioning of the market.
- (4) Public service obligations capable of affecting the natural gas market within the meaning of paragraph 3 shall be notified to the Competition Council.
- (5) The costs incurred in a prudent manner by economic operators for the performance of public service obligations are justified costs and shall be covered by the prices or tariffs charged by them, in accordance with the specific regulations of ANRE.
- (6) ANRE shall review every 2 years the necessity and method of imposing public service obligations, taking into account the evolution of the natural gas sector.
- (7) ANRE shall draw up and submit to the relevant Prime Minister and Ministry a report on the measures taken to fulfil the public service obligations, including consumer and environmental protection, and their possible effect on domestic and international competition, which will be updated every 2 years, taking into account the changes made to these measures. This report shall be forwarded to the specialist committees in the Romanian Parliament and the European Commission for information.

#### Chapter XI: Natural gas market Art. 174:

##### Structure of the gas market

- (1) The natural gas market is composed of the regulated market and the competitive market, while natural gas transactions are wholesale or retail.
- (E) In the wholesale gas market, all prices and quantities determined following transactions on each of the centralised gas markets, the prices and quantities of natural gas used for balancing the TNS, as well as all prices and quantities in export contracts, import contracts, intragroup contracts and related quantities shall be made public, by type of transactions, in aggregate forms which do not affect the commercial interests of the operators, in accordance with the ANRE regulations.
- (2) The increase in the share of the competitive market is achieved gradually, by ensuring access to this market for as many participants, suppliers and final customers as possible, in accordance with the provisions of Art. 175.
- (3) Natural gas market participants shall comply with its operating rules, approved by ANRE.
- (4) The natural gas market participants and associated operational structures are: producers, suppliers, natural gas traders, final customers, transmission system operator/operators, operators of upstream gas production pipelines, centralised gas market operators, distribution operators, storage/storage operators and LNG terminal operator.
- (5) The natural gas market participants are obliged to assume financial responsibility for the payment of imbalances they generate on the natural gas market, in accordance with the regulations approved by ANRE.
- (6) Final gas customers have the right to choose their supplier and directly negotiate sales-purchase

contracts with them.

(7) If they have exercised their right of eligibility, final customers no longer have the right to return to the regulated supply.

(7x) By exception to paragraph 7, domestic customers who have exercised their right of eligibility shall be entitled to return to the regulated supply.

(8) The Dispute Resolution Commission is hereby established as a body to resolve disputes on the wholesale and retail markets between natural gas market participants.

(9) The dispute resolution committee consists of 5 members who are appointed by decision of the president of ANRE, for a period of 3 years, of the employees of ANRE who are at least 5 years old in the field of natural gas.

(10) The dispute resolution committee shall carry out its work on the basis of a regulation of organisation and functioning approved by decision of the president of ANRE, after public consultation.

(11) ANRE shall act as a dispute resolution authority for any complaint made by third parties against a transmission system operator, LNG terminal operator, storage or distribution operator relating to the operator's obligations under this Law and shall issue a decision within two months from the date of receipt of the complaint. This period may be extended by two months if ANRE wishes to obtain further information. This period may then be extended with the agreement of the complainant. The initiation of the complaint settlement process by ANRE is without prejudice to the right of applicants to appeal to the courts in order to resolve the same complaints.

Art. 175: Functioning of the regulated gas market

(1) The regulated natural gas market functions mainly to ensure the supply of natural gas to the final customers referred to in Article 179 (2) (a) to c).

(2) On the regulated gas market, the competent authority shall be entitled to:

- a) impose public service obligations in accordance with Article 173;
- b) require transparent procedures for the procurement of natural gas on the competitive market to carry out the activities referred to in Article 179 (2) (a) to (c);
- c) set prices applied by gas suppliers of last resort to final customers;
- d) approve methodologies to verify/control the purchase of natural gas costs.
- e) require transmission system operators, distribution operators, storage operators and LNG terminal operator, where necessary, to amend the terms and conditions of commercial/technical regulations, including tariffs and methodologies, developed by them in order to ensure proportionality and their application in a non-discriminatory manner.

(3) The supply of natural gas on the regulated market is made on the basis of framework contracts approved by ANRE.

(4) ANRE shall continuously monitor the effect of the regulated market on the competitive gas market and take the necessary measures to avoid potential distortions of competition and to increase transparency of commercial transactions.

(5) ANRE shall organise, within the framework of the monitoring action, a process of assessing the functioning of the natural gas market in the conditions of abandoning the application of regulated prices for final customers, in which at least the following general criteria will be used:

- a) the number of suppliers active in the natural gas market each year;
- b) the market share of each of the active suppliers;
- c) the economic and financial capability of active suppliers and their behaviour in the market;
- d) the evolution of the annual number of changes of the natural gas supplier;
- e) the level and evolution of market prices;
- f) number and type of vulnerable consumers.

Art. 176



(1) The plan of preventive actions regarding measures to guarantee the security of gas supply and the Emergency Plan, referred to in Art. 102 lett. o), shall be approved by Government Decision initiated by the relevant ministry.

(2) In the event of a crisis situation, on the three levels laid down in Regulation (EU) 2017/1938 of the European Parliament and of the Council of 25 October 2017 on measures to guarantee security of gas supply and repealing Regulation (EU) No 994/2010, the competent ministry shall, as competent authority, implement the measures provided for in the Plan preventive action on measures to guarantee security of gas supply and/or in the Emergency Plan.

(3) In crisis situations, during the emergency level, in order to ensure security of gas supply, the competent authority may order the application of the administrative measures provided for in the Emergency Plan, which are not market-based.

(4) The measures referred to in paragraph 2 shall affect as little as possible the proper functioning of the European Union's internal market and be strictly limited to remedying the crisis situation which has caused them.

(5) The relevant Ministry shall notify the safety measures taken in each case to the European Commission as a matter of urgency.

Art. 177: Functioning of the competitive gas market

(1) On the competitive market, natural gas commercial transactions are made wholesale or retail, in compliance with ANRE regulations, and prices are formed on the basis of supply and demand as a result of competitive mechanisms.

(2) The competitive wholesale market operates on the basis of:

- a) bilateral contracts between natural gas economic operators;
- b) transactions in centralised markets managed by the natural gas market operator or balancing market operator, as appropriate;
- c) other types of transactions or contracts.

(3) In the competitive retail market, suppliers sell natural gas to final customers through contracts at negotiated prices or standard offers.

(3x) In the period from 15 July 2014 to 30 November 2016, natural gas producers in Romania or their affiliates, as appropriate, are obliged to conclude transactions on the centralised markets in Romania, transparent and non-discriminatory, for the sale of a minimum quantity of natural gas from their production, intended for domestic consumption, in accordance with the regulations issued by ANRE.

(32) In the period from 1 January 2015 to 30 November 2016, licensed suppliers are obliged to conclude transactions on centralised, transparent and non-discriminatory markets for the sale/purchase of a minimum quantity of natural gas, in accordance with the regulations issued by ANRE.

(33) In order to ensure non-discrimination between the same categories of consumers, by 31 March 2017, household customers and heat producers, only for the quantities of natural gas used for the production of heat in cogeneration plants and thermal power plants intended for public consumption, shall have the same treatment in terms of ensuring the quantities and selling price of natural gas consumed, irrespective of whether they have chosen to be eligible or regulated.

(34) [Article 177, paragraph (3A4) of Title II, Chapter XI was repealed on 19 July-2018 by Article I, point 62 of Law 167/2018]

(35)

[Article 177, paragraph (3A5) of Title II, Chapter XI was repealed on 19 July-2018 by Article I, point 62 of Law 167/2018]

(35) In the period from 1 January 2018 to 31 December 2018, each natural gas producer, in so far as it contracts the sale of natural gas, in a calendar year, is obliged to conclude, in that calendar year, contracts on the centralised markets in Romania, transparent and non-discriminatory, in accordance

with the regulations issued by ANRE, for the sale of a minimum quantity of natural gas from its own production which may not be less than that represented by a percentage quota, established by Government decision, of the quantity of natural gas for which it concludes the sales contract in question, as per the sales contract. If the delivery deadline provided for in the contracts is in a calendar year other than the one in which the contract is carried out, the obligation to trade on the centralised markets in Romania shall be carried out in the delivery year.

\*) In order to apply the provisions of Art. 177 par. (36) of the Law on Electricity and Natural Gas No. 123/2012, with subsequent amendments and additions, in conjunction with those of Art. 1 of the Government Decision no. 925/2017 establishing for 2018 the percentage rates provided by Art. 177 par. (36) and (37) of the Law on Electricity and Natural Gas No. 123/2012, the following calculation formula shall apply:

$QVP_{2018} = CP\% VP_{2018} * Q_{ctr. PV}_{2018}$ , in which:

$QVP_{2018}$  – the quantity of natural gas from its own onshore production, which the producer, as a seller, has/was under an obligation to trade by concluding contracts on centralised markets in 2018;

$CP\% VP_{2018}$  – the percentage rate set out in Article 1 of Government Decision no. 925/2017 for 2018;

$Q_{ctr. pv}_{2018}$  – quantity of natural gas for which he concluded/concluded sales-purchase contracts, as a seller, with delivery in calendar year 2018, except for the quantities of natural gas referred to in Art. 177 paragraph (39) of Law No 123/2012, as amended and supplemented.

With effect from 1 January 2019, each natural gas producer, in so far as it contracts the sale of natural gas, in a calendar year, shall conclude contracts in the calendar year in which it delivers natural gas to wholesale, transparent, public and non-discriminatory centralised markets, for the sale of a minimum quantity of natural gas from its own onshore production, determined by applying the percentage rate provided for in Article 177(316) of the following Law No 123/2012, with subsequent amendments and additions, to the quantity of natural gas, in accordance with the quantity of natural gas, in accordance with the quantity of natural gas, in accordance with the quantity of natural gas, as provided for in Article 177(316) of the following Law No 123/2012, with subsequent amendments and additions, to the quantity of natural gas, in accordance with the quantity of natural gas, in accordance with the quantity of natural gas:

$QVP = CP\% VP * Q_{ctr. VP}$ , where:

$QVP$  – the quantity of natural gas from its own onshore production, which the producer, as a seller, is obliged to trade by concluding contracts on centralised markets;

$CP\% VP$  – the percentage rate established in accordance with the provisions of Art. 177 par. (316) of Law no. 123/2012, as amended and supplemented in the respective calendar year;

$Q_{ctr. vp}$  – quantity of natural gas from its own onshore production, for which it concludes sales contracts, as a seller, and which it delivers in the calendar year concerned.

In the case of producers who conclude, as a seller, supply-term contracts in a calendar year other than the one in which the contract is carried out, the obligation to trade by concluding contracts on centralised markets shall be calculated in accordance with the following formula:

[PICTURE]

$Q'VP$  – means the quantity of natural gas delivered in year n on the basis of contracts which the producer is required to conclude on centralised markets;

N – represents the calendar year in which contracted natural gas is delivered; I – represents the calendar year in which the additional contracts/acts were concluded;

$Q_{ctr Pi}$  – represents the quantity/sum of the quantities of natural gas contracted/contracted through the conclusion of sales-purchase contracts/additional acts in year i with delivery in year n;

$CP\% i$  – represents the mandatory minimum rate in force on the date of conclusion of the contract/additional act in year i for year n. If the mandatory minimum rate is not known at the time of

the conclusion of the contract/additional act i for year n, the quantities delivered under these contracts/additional acts shall be subject to the mandatory minimum rate applicable in year i. Natural gas producers shall make available to the market, competitive and non-discriminatory, all natural gas produced in the calendar year concerned, as follows:

- a) centralised wholesale markets as provided for in paragraphs 1, 2 and 3;
- b) the rest of the production, based on other types of transactions or contracts.

(36) During the period from 1 January 2018 to 31 December 2018, each supplier of natural gas, which does not have the status of producer, in so far as it contracts the sale/purchase of natural gas, in a calendar year, shall conclude contracts on centralised markets in Romania in that calendar year, transparent and non-discriminatory, in accordance with the regulations issued by ANRE, in order to:

- a) the purchase of a minimum quantity of natural gas which may not be less than that represented by a percentage quota, established by Government Decision, of the quantity of natural gas for which it concludes contracts for the sale – purchase of natural gas, in the calendar year concerned, as buyer;

\*) In order to apply the provisions of Art. 177 par. 37 lett. a) of the Law on Electricity and Natural Gas No. 123/2012, with subsequent amendments and additions, in conjunction with those of Art. 2 of the Government Decision no. 925/2017, the following calculation formula shall apply:

$Q_{FTC2018} = CP\%_{FTC} * Q_{ctr. FT C2018}$ , in which:

$Q_{FTC2018}$  – the quantity of natural gas for which the natural gas supplier/trader has/was under an obligation to conclude contracts on centralised markets in 2018 as a buyer;

$CP\%_{FTC}$  — percentage rate set out in Article 2 of Government Decision no. 925/2017 for 2018;  $Q_{ctr. FT C2018}$  –

quantity of natural gas for which it concludes/concluded sales-purchase contracts, as a buyer, with delivery in calendar year 2018, less the quantity of natural gas that is the subject of transactions concluded with an external partner which is not an economic operator in the natural gas sector in Romania, outside the Romanian wholesale market.

- b) the sale of a minimum quantity of natural gas to wholesale customers, which may not be less than that represented by a percentage quota, established by Government Decision, of the quantity of natural gas for which they conclude contracts for the sale and purchase of natural gas, in the calendar year concerned, with wholesale customers as sellers;

\*) In order to apply the provisions of Art. 177 par. 37 lett. b) of the Law on Electricity and Natural Gas No. 123/2012, with subsequent amendments and additions, in conjunction with those of Art. 3 of the Government Decision no. 925/2017, the following calculation formula shall apply:

$Q_{FTV2018} = CP\%_{FTV} * Q_{ctr. FT V2018} + CP\%_{VP.2018} * Q_{TR}$  in which:

$Q_{FTV2018}$  – the quantity of natural gas for which the natural gas supplier/trader has/was under an obligation to conclude sales/purchase contracts on the centralised markets in 2018, as a seller;

$CP\%_{FTV}$  — percentage rate set out in Article 3 of Government Decision no. 925/2017 for 2018;  $Q_{ctr. FT V2018}$  –

the quantity of natural gas for which he concluded/concluded sales-purchase contracts, as a seller, with delivery in calendar year 2018, except for the quantities of natural gas referred to in Article 177(39)<sup>of</sup> Law No 123/2012, as amended and supplemented, and those intended for final customers;

$CP\%_{VP.2018}$  – the percentage rate set out in Article 1 of Government Decision no. 925/2017 for 2018;

$Q_{TR}$  – quantity of natural gas whose ownership was transferred to the supplier by a related producer, under the conditions of Art. 177 par. (39)<sup>of</sup> Law No 123/2012, as amended and supplemented.

- c) if the delivery deadline provided for in the contracts is in a calendar year other than the one in which the contract is carried out, the obligation to trade on the centralised markets in Romania shall be carried out in the delivery year.

(37) [Article 177, paragraph (3A8)<sup>of</sup> Title II, Chapter XI was repealed on 19 July-2018 by Article I, point 64 of Law 167/2018]

(38) The provisions of <sup>paragraph</sup>36 shall not apply to quantities of natural gas for which the manufacturer

transfers the ownership, in whatever form, to a supplier, without being the producer, provided that such quantities are traded by the affiliate under the conditions and compliance with the quantitative limits laid down<sup>in</sup> paragraph 36 under the responsibility of the producer.(310)The provisions of paragraph (37) (b) shall not apply to suppliers who do not conclude sales-purchase contracts with wholesale customers as sellers.

(3n)By 30 November 2016, ANRE will approve, with the opinion of the Competition Council, the specific rules that will be applied on centralised gas markets, for the purpose of trading natural gas, under competitive conditions and in a transparent, public and non-discriminatory manner.

(312) By November 30, 2016, ANRE shall issue, with the opinion of the Competition Council, the necessary regulations for the application of the provisions of this Article, so as to ensure the conditions of competition and of transparent and non-discriminatory access of buyers to the quantities of natural gas offered on the competitive market.

(313) [Article 177, paragraph (3A13) of Title II, Chapter XI was repealed on 19 July-2018 by Article I, point 66 of Law 167/2018]

(314) [Article 177, paragraph (3A14) of Title II, Chapter XI was repealed on 19 July-2018 by Article I, point 66 of Law 167/2018]

(315) During the period from 1 July 2020 to 31 December 2022, all participants in the natural gas market, with the exception of producers whose annual production in the previous year exceeds 3000000 MWh, in so far as they contract the sale of natural gas on the wholesale market in a calendar year, shall be required to offer annually, as a seller, quantities of gas on centralised, transparent, public and non-discriminatory markets, in accordance with the regulations issued by ANRE.

(3 ^6)\_

a) In the period from 1 July 2020 to 31 December 2022 natural gas producers whose annual production in the previous year exceeds 3000000 MWh shall offer annually the sale of natural gas quantities, with delivery from 1 July 2020 to 31 December 2022, in a transparent, public and non-discriminatory manner, on the centralised markets in accordance with the regulations issued by ANRE.

b) for the period from 1 July 2020 to 31 December 2022 the quantities of natural gas referred to in subparagraph (a) shall represent a percentage of 40 % of the annual production recorded in the year prior to tendering, with the exception of technological consumption and own consumption;

c) the ANRE regulations referred to in letter a) establish a mandatory bidding programme, including the distribution of the quantities offered on standardised monthly, quarterly, half-yearly, seasonal and annual products, so as to ensure the conditions of competition, transparency and non-discrimination for all potential buyers.

(317)During the period from 1 July 2020 to 31 December 2022, all natural gas market participants, insofar as they contract the purchase of natural gas on the wholesale market, in a calendar year, shall be obliged to offer annually, as a buyer, in the calendar year in which they purchase natural gas, applications for natural gas on centralised, transparent, public and non-discriminatory markets, in accordance with the regulations issued by ANRE.

(3118)[the text of Article 177, paragraph 31A18)of Title II, Chapter XI was repealed on 01-July-2020 by Article I, point 8 of the Emergency Ordinance 106/2020]

(319)The provisions of paragraph (317) shall<sup>not</sup>apply to suppliers who have access to a single source of natural gas acquisition, according to the connection solution.

(4) Relevant data such as duration, delivery and settlement rules, quantity, deadlines for execution, transaction prices, means of identification of the wholesale customer, all transactions under gas supply contracts and natural gas derivatives concluded with wholesale customers and transmission system operators and storage and LNG operators shall be kept by suppliers for at least 5 years and shall be

made available to ANRE, the Competition Council, the European Commission and their competent authorities.

(5) The obligation to retain data on derivative transactions applies only after publication of the guidelines by the European Commission.

(6) The data referred to in paragraph 5 may be published in accordance with the confidentiality of commercially sensitive information.

Art. 1771: Technological consumption

(1) The National Agency for Mineral Resources shall develop the methodology on the basis of which it calculates and certifies the quantities of natural gas necessary to be consumed by economic operators in order to ensure the technological parameters necessary for carrying out the production and storage activity, representing the technological consumption related to this activity.

(2) ANRE shall develop the methodologies on the basis of which the quantities of natural gas necessary to be consumed by the economic operators are calculated and certified to ensure the technological parameters necessary for carrying out the distribution activity, i.e. the transport activity, representing the technological consumption of this activity.

## Chapter XII: Prices and tariffs Art.

178: Price and fare system. Principles

(1) The system of gas prices and tariffs shall be designed to ensure:

- a) bringing the market value of alternative fuels closer to the market, promoting competition in the natural gas market, diversifying natural gas supply sources and increasing security of supply;
- b) recovering the costs incurred in a prudent manner related to regulated activities, ensuring a reasonable rate of return on the capital invested in regulated activities, stimulating the development of production, transmission, storage, distribution of natural gas and LNG terminals, both in the short and long term;
- c) energy saving in final customers;
- d) improving the quality of natural gas and services provided to customers.

(2) The principles underpinning the development of regulation on pricing and tariff systems for regulated activities are as follows:

- a) regulated prices and tariffs shall be determined on the basis of their methodologies approved and published by the competent authority;

All regulated pricing and tariff-setting methods shall be applied in a non-discriminatory manner, based on objective and transparent criteria and subject to the public consultation process prior to their approval;

- b) stimulating efficient use of natural gas, ensuring quality of service, ensuring the calorific value of natural gas, promoting competition in the natural gas market and protecting the interests of customers;
- c) preventing speculation and speculative behaviour in the natural gas market;
- d) encouraging the transition of peak demand into periods of reduced consumption.

(3) It shall be prohibited to recover the costs corresponding to the service provided for a particular category of final customers through tariffs charged to other categories of final customers.

(4) Cross-subsidisation between regulated activities and between regulated and unregulated activities of an economic operator shall be prohibited.

(5) All trading prices, including intra-group contracts, of natural gas from domestic production, import, export, shall be made public, by type of transaction, in an aggregated form where the commercial interests of the parties involved in the transactions are affected, in accordance with the ANRE regulations.

(7) By way of derogation from the legal provisions on procurement, the acquisition of works, supplies

and services for the performance of natural gas activities carried out on the basis of tariffs regulated by the competent authority shall be made through competitive, transparent and non-discriminatory procedures, in accordance with the regulations approved by ANRE. Special or exclusive rights are prohibited.

(8) The tariff for the provision of the pipeline storage service shall be established by the economic operator performing this activity, based on a methodology approved by ANRE.

(9) The transmission system operator has the obligation to propose ANRE technical, commercial norms and tariff methodologies regarding the pipeline storage activity.

(6) [The text of Article 178(6) of Title II, Chapter XII was repealed on 30 to April 2020 by Article XIII, point 9 of the Emergency Ordinance 1/2020]

Art. 179: Activities related to the regulated market

(1) On the regulated market comprising activities of a natural monopoly nature, activities related to the operation of the LNG terminal, the related activities and the provision at regulated price and under framework contracts, the pricing and tariff systems shall be established by ANRE.

(2) Activities related to the regulated market shall include:

a) the supply of natural gas at regulated price and under framework contracts until 31 December 2014 for non-household customers, unless on that date there is a significant difference between the domestic marketing price and the European import price, which could jeopardise market stability, in which case the period is extended until 31 December 2015;

b) the supply of natural gas at regulated price and under framework contracts until 30 June 2020 for household customers;

c) the supply of natural gas last resort;

d) [The text of Article 179(2), point D. of Title II, Chapter XII was repealed on 04-oct-2014 by Article I, point 101 of Law 127/2014]

e) the transport of natural gas;

f) the transport of gas through upstream supply pipes according to the conditions of validity of the licence;

g) underground storage of natural gas until the end of the extraction cycle 2020-2021;

h) the storage of natural gas in the pipeline;

i) distribution of natural gas and hydrogen;

j) related activities carried out by licensed operators.

k) use of LNG and hydrogen terminal.

(3) The timetable for the phasing out of regulated prices for final customers starting from December 1, 2012 for non-household customers, i.e. from July 1, 2013 for household customers is established by the Government, in accordance with the schedule of producer prices proposed by ANRE and ANRM, taking into account the possible negative effects of eliminating regulated prices, so that they are less felt by customers.

(4) For activities related to the regulated market, prices and tariffs shall be established on the basis of methodologies approved and published by ANRE.

(5) The methodologies for establishing regulated prices and tariffs shall be approved by ANRE, after informing and consulting all interested parties. Their calculation shall take into account the justified costs for those activities, development and environmental expenditure and a reasonable profit rate

(6) The order approving the regulated prices and tariffs in the natural gas sector, as well as the order to approve their regulatory methodologies shall be published in the Official Gazette of Romania, Part I. The order approving prices and regulated tariffs in the natural gas sector shall include the date of their entry into force.

(7) ANRE shall annually monitor the results of the phasing-out of regulated prices for final customers

and shall propose to the Government, as appropriate, to capitalise on domestic gas production on the domestic market until the end of the approved timetable.

Art. 180: Price/tariff limitation

(1) In the event of a major imbalance between supply and demand and/or obvious failure of the natural gas market, the Government, at the proposal of ANRE and with the opinion of the Competition Council, may limit the excessive increase of prices/tariffs or their blocking for a specified period of not more than 6 months, which may be extended successively for durations of up to 3 months, as long as the circumstances leading to the adoption of that decision persist, by:

- a) fixing an upper price limit;
- b) limitation of income from regulated activity.

(2) The costs recognised and deferred in accordance with paragraph 1 shall be fully recovered in accordance with the procedure approved by the competent authority.

Art. 181: Determination of mixture structures

(1) In order to cover the consumption needs, final customers have the right to be supplied with natural gas in internal/import mixture, according to structures approved/established by ANRE.

(2) The provisions of paragraph 1 shall apply until the price of natural gas from domestic production is converged with that of imported natural gas.

(3) ANRE may establish:

until 31 December 2014 and until 31 December 2015 respectively, under the conditions of Article 179(2) of Regulation (EC) No/.

- a) A specific import/internal blending structure for the quantity of natural gas intended for consumption by household customers and heat producers, only for the quantity of natural gas used for the production of heat in cogeneration plants and in heat plants intended for population consumption, and a specific import/internal blend structure for the quantity of natural gas intended for consumption by non-household customers, with the exception of heat producers, for the quantity of natural gas used in the production of heat in cogeneration plants and for the heating consumption;
- b) from 1 January 2015 and 1 January 2016 respectively, under the conditions of Article 179(2)(a), until 30 June 2021, under the conditions of Article 179(2)(b), a specific import/intem mixture structure for the quantity of natural gas intended for consumption of household customers and non-household customers, heat producers, only for quantities of natural gas used in the production of heat in cogeneration plants and heat plants intended for the consumption of the general population.

(4) In order to ensure the bearability of costs related to the energy bill, in particular those related to public heating, the determination of the import/internal blending structure and the approval of the regulated final price for household customers will also take into account the premises considered when establishing data for the elimination of regulated prices to this category of customers.

(5) Until 31 March 2017, the purchase price of natural gas from domestic production for domestic customers and heat producers, only for the quantities of natural gas used for the production of heat in cogeneration plants and heat plants intended for the consumption of the population, shall be determined by Government decision, at the proposal of the relevant ministry.

(6) Are exempted from compliance with the structures of natural gas mixtures established by ANRE:

- a) quantities of natural gas re-injected into deposits exempted from payment of the fee under the law;
- b) quantities of natural gas intended for technological consumption specific to oil operations carried out by holders of oil agreements;
- c) quantities of natural gas intended for balancing the SNT.

(7) Exceptions to compliance with the structures of natural gas mixtures established by ANRE shall be established by Government Decision, at the proposal of the relevant ministry, within 45 days from the entry into force of this law.

(8) On the basis of the data provided for in Article 179(2) and (3), ANRE shall gradually eliminate the regulated prices for the supply of natural gas for final customers.

(9) [The text of Article 181(9) of Title II, Chapter XII was repealed on 29-mar-2019 by Article I, point 8 of the Emergency Ordinance 19/2019]

Art. 182: Accounting separation obligation

Legal entities in the natural gas sector that practice activities regulated in accordance with Art. 179 par. (2) shall be obliged to ensure accounting separation, according to the legal norms and regulations of ANRE.

#### Chapter XIII: Procedure for conducting investigations Art. 183:

Ordering the conduct of investigations

The President of the competent authority shall order by decision to carry out investigations under the terms of Art. 185 by their own personnel empowered for this purpose, ex officio or in response to a complaint registered with the competent authority, filed by a natural or legal person who is actually and directly affected by a potential breach of the provisions of this Title, only in areas where ANRE has the competence of investigation, according to the law.

Art. 184: Request for information and documents

In carrying out the investigations and the powers conferred under this Title, the competent authority may request the economic operators for the information and documents necessary, stating the legal basis and the purpose of the request, and may lay down time limits within which such information and documents are to be provided to it.

Art. 185: Investigative rights

(1) In order to investigate infringements of the provisions of this Title, under the conditions of Article 183, staff

ANRE empowered to do so shall have the following rights:

- a) enter the premises, land or means of transport which economic operators legally hold;
- b) examine any documents, registers, financial-accounting and commercial documents or other records related to the activity of economic operators, regardless of where they are stored;
- c) ask any representative or employee of the economic operator for explanations of the facts or documents relating to the subject matter and purpose of the investigation and to record or record its replies;
- d) to collect or obtain in any form copies or extracts from any documents, registers, financial-accounting and commercial documents or other records relating to the activity of the economic operator;
- e) seal any site intended for the activities of the economic operator and any documents, registers, financial accounting and commercial documents or other records relating to the activity of the economic operator, for the duration and to the extent necessary for the investigation.

(2) The competent authority shall take the action referred to in paragraph 1 only if there is evidence that documents may be found or information deemed necessary for the fulfilment of its powers and the outcome of the investigation shall be recorded in a minutes of finding and inventory.

(3) The competent authority may carry out unannounced inspections and request that it be presented within a reasonable period of time any information or justification relating to the fulfilment of the investigative powers, both on the spot and by convening at its premises.

Art. 186: Judicial authorisation of investigations

On the basis of judicial authorisation given by conclusion, according to art. 187, ANRE personnel authorised under the terms of Art. 183 may carry out inspections in any other premises, including domicile, land or means of transport belonging to leaders, administrators, directors and other employees of economic operators or associations of economic operators subject to investigation.

Art. 187: Obtaining judicial authorisation

(1) ANRE personnel shall carry out inspections in accordance with Article 186 only on the basis of the authorisation decision issued by the President of the competent authority and with the judicial



authorisation given by the President of the Bucharest Court of Appeal or by a judge delegated by him. A certified copy of the empowerment decision and of the judicial authorisation shall be communicated to the person subject to inspection before it commences.

(2) The application for authorisation shall be dealt with in chambers without summoning the parties. The judge shall rule on the application for authorisation no later than 48 hours from the date of registration of the application by final resolution. The conclusion shall be reasoned and communicated to the competent authority no later than 48 hours after delivery.

(3) Where the inspection is to be carried out simultaneously in more than one of the premises referred to in Article 186, the competent authority shall make a single application, the court ruling in a court resolution indicating the premises in which the inspection is to be carried out.

(4) The application for authorisation must contain all information capable of justifying the inspection, and the judge referred to it shall be required to verify whether the application is well founded.

(5) Whatever the circumstances, the inspection shall take place between 8.00 and 18.00 and must be carried out in the presence of the person carrying out the inspection or his representative. The inspection may continue after 18: 00 only with the consent of the person with whom the inspection is carried out or by his representative.

(6) Inventories and sealing shall be made according to the provisions of the Code of Criminal Procedure.

(7) [The text of Article 187(7) of Title II, Chapter XIII was repealed in 01-feb-2014 by Article 101, point 2 of Title II of Law 255/2013]

(8) The President of the Bucharest Court of Appeal or the judge delegated by him shall have the power to issue the judicial authorisation in order to carry out the inspection under Art. 186. The court shall verify whether the empowerment decision issued by the President of ANRE is authentic and that the coercive measures envisaged are neither arbitrary nor excessive in view, in particular, of the seriousness of the suspected infringement, the importance of the evidence sought, the involvement of the undertaking concerned and the reasonable likelihood that the records and documents relating to the activity related to the subject-matter of the inspection will be kept at the premises for which authorisation is sought. The court may ask AN RE for detailed explanations of the elements necessary to enable it to verify the proportionality of the envisaged coercive measures.

Art. 188: Access to documents and information

(1) Central and local public administration bodies, as well as any other public institutions and authorities are obliged to allow the competent authority access to documents, data and information held by them, in compliance with legal provisions.

(2) The competent authority, having received access to the documents, data and information referred to in paragraph 1, shall be obliged to respect the character of state secret or service secret legally assigned to those documents, data and information.

Art. 189: Investigation procedure

The investigation procedure shall be carried out in accordance with the Regulation on the organisation and conduct of the investigation activity approved by order of the ANRE President.

#### Chapter XIV: Prohibitions

Art. 190: Protection of objectives/systems

For the protection of natural gas objectives/systems it shall be prohibited from third parties:

- a) perform constructions of any kind in the natural gas target safety zone; where, exceptionally, it is necessary to carry out construction on the land on which they are located, the applicant shall bear all the costs of the necessary modifications, in compliance with all the provisions relating to the design and execution of the natural gas works and subject to the disposal to the operator of the resultant;
- b) carry out excavations or work of any kind in the gas target protection zone without prior notice of

the system operator;

- c) store materials on the access routes and in the gas target protection zone;
- d) intervene in any way on natural gas pipelines, equipment and installations.

#### Art. 191: Prohibitions

With a view to the safe operation of the natural gas transmission system, interruption of electricity supply, telephone or radio links and rail transport shall be prohibited, except in case of force majeure.

### Chapter XV: Crimes and contraventions

#### Art. 192: Responsibilities

The violation of the provisions of this Title shall entail the disciplinary, civil, contraventional or criminal liability of the guilty persons, as the case may be.

#### Art. 193: Offences

- (1) Damage, modification without right or blocking of the operation of equipment measuring the consumption of natural gas supplied constitutes a criminal offence and shall be punishable by imprisonment from 3 months to 2 years or by a fine.
- (2) The execution or use of clandestine installations for the purpose of direct connection to the natural gas supply system or for bypassing measuring equipment is a criminal offence and shall be punishable by imprisonment from 3 months to 2 years or by a fine.
- (3) If the offenses referred to in par. (1) and (2) are committed by an employee of a license holder, the special limits shall be increased by half.
- (4) The attempt on the offenses referred to in par. (1) and (2) shall be punishable.

#### Art. 194: Misdemeanors

The following facts constitute contraventions to the rules on the conduct of activities in the natural gas sector:

1. design, endorsement, verification, technical expertise, execution, reception, commissioning and/or operation of new works, modifications, extensions or revisions of natural gas objectives and installations for the use of natural gas by unauthorised natural or legal persons;  
Unauthorised intervention on installations for the use of natural gas in operation by natural or legal persons;
12. <sup>unjustified</sup> supply of natural gas to the final customer by natural or legal persons;
2. the design and/or execution of new works, modifications, extensions of natural gas objectives and natural gas installations without obtaining the necessary agreements, opinions and authorisations and/or without complying with the restrictions/conditions laid down therein;
3. design, execution, reception, commissioning and/or operation of new works, modifications, extensions, checks/revisions of natural gas objectives and natural gas installations, in violation of the technical regulations issued in the field;
4. endorsement/verification by a certified project verifier of technical projects/documentations for the execution, reception and/or commissioning of new works, modifications, extensions of natural gas objectives and natural gas installations, which do not meet the requirements of the technical regulations in force;
5. execution of new works, modifications, extensions of natural gas objectives, in breach of the provisions of Articles 104, 105 and 151;
6. execution of new works, modifications, extensions of natural gas and natural gas installations objectives, without verified design/technical execution documentation, according to the legal provisions;
7. the execution of new works, modifications, extensions of natural gas objectives, excluding installations for use of any kind without tracking them by a licensed operator;

8. the use of equipment, installations, appliances, products and processes which do not comply with the technical regulations in force;
9. the use/exploitation of installations, equipment and appliances that do not have metrological checks and/or technical checks/revisions within validity, in accordance with the regulations in force;
10. carrying out, without the consent of the licensed operator, any works, operations, manoeuvres or interventions, of any kind, in the pipelines, appliances, equipment, measuring equipment and accessories related to the objectives/systems of production, storage/storage, transmission or distribution of natural gas;
11. reception, commissioning and/or operation  
Natural gas targets/systems/installations/equipment for which the documents required by the regulations in force have not been drawn up and/or for which the necessary authorisations and/or licences have not been obtained;
12. failure to fulfil and/or improper fulfilment of the conditions of validity of the authorisations referred to in Article 119 (1) other than those referred to in this Article;
13. failure and/or inadequate fulfilment of the conditions of validity of the authorisations/licences referred to in points 2 and 3 of Article 119, other than those referred to in this Article;
14. failure to comply with Regulations on access and/or connection to transmission/distribution systems and/or upstream supply pipes;
15. failure to comply with the framework contracts approved by ANRE;
16. failure to comply with the provisions of performance standards in the natural gas sector;
17. interruption or undue delay in the supply of natural gas;
18. unjustified refusal of applicants' access to upstream supply pipes, transmission system, distribution system or gas storage storage facilities;
19. the resale of natural gas by final customers;
20. refusal or obstruction of investigators authorised by ANRE to carry out checks and/or inspections, according to the legal provisions;
21. failure to provide/not present the data, documents and/or information required within the deadlines set by ANRE or their incomplete/erroneous presentation, and/or failure to fulfil the measures within the time limits ordered by ANRE and/or the refusal to comply with the summons addressed by ANRE;
22. failure to comply with the obligations/requirements set out in the Regulations for the authorisation and verification of natural persons and economic operators carrying out natural gas design, execution and exploitation activities;
23. failure to comply with the obligations/requirements set out in the Regulations for granting authorisations and licensing in the natural gas sector;
24. failure to comply with the storage programme established in accordance with the rules in force; 24f compliance by the participants in the natural gas market with their obligations under the provisions of Article 143 par. (1), Article 144<sup>and</sup> Article 145(4) lett. g);
- 242.<sup>failure</sup> by participants in the natural gas market to comply with their obligations under the provisions of Art. 143 par. (1) lett. a1);
25. non-establishment of the minimum stock of natural gas, which holders of supply/transport licences are obliged to hold in underground storage warehouses, established in accordance with the regulations in force;
26. failure to comply with the prohibitions provided for in Article 190 on the protection of objectives/systems;
27. non-compliance with commercial regulations approved by ANRE, including price and tariff

methodologies;

28. failure to comply with the regulations on legal and/or accounting unbundling of regulated activities in the natural gas sector;

29. carrying out any activity without having the necessary licence/authorisation issued in accordance with the provisions of this Title and the regulations developed pursuant to it;

30. failure to comply with the legal provisions on the change of natural gas supplier;

31. failure to comply with the legal provisions on the measurement of natural gas;

32. failure to comply with the reporting requirements laid down in existing regulations, including in European regulations;

33. failure to comply with the provisions on informing natural gas consumers;

34. failure to comply with technical regulations issued/approved by ANRE;

35. failure by the transmission system operator to comply with the provisions on conditions for access to natural gas transmission networks laid down in the European regulations; 351. <sup>failure</sup> by producers or their affiliates, as appropriate, as well as by licensed suppliers to fulfil the obligations provided for in Articles 177 and 178;

36. failure by the transmission system operator to comply with the provisions relating to capacity allocation mechanisms and congestion management procedures provided for in the European Regulations;

361. <sup>failure</sup> by the transmission system operator to comply with the requirements laid down in European regulations other than those referred to in points 35 and 36;

37. Non-compliance with the transparency requirements laid down in the ANRE regulations, as well as in the European Regulations, with the exception of Regulation (EU) No 1.227/2011;

38. failure or incomplete provision by the transmission system operator of the information necessary for network users to take timely corrective action to avoid imbalances;

39. failure to comply with the orders and decisions of ANRE, other than those provided for in the contraventions contained in this Article;

40. non-compliance with confidentiality provisions.

41. [Article 194, point 41. of Title II, Chapter XV was repealed on 19-July 2018 by Article I, point 75 of Law 167/2018]

42. non-compliance by the transmission system operator of natural gas and natural gas distribution system operators with maintenance and investment programs, at the terms and conditions established by ANRE regulations.

43. Failure to comply with the provisions of Article 124 (11)<sup>and (12)</sup> and Article 177 (315) to(317);

44. Failure by market participants to comply with their obligations under Articles 4(1) to (3), 8(1) and (5), 9(1) and (5) and 15 of Regulation (EU) No 1.227/2011;

45. Failure by market participants to comply with their obligations under Article 3(1), (2)(e) and Article 5 of Regulation (EU) No 1.227/2011;

46. the refusal of participants in the wholesale gas market to allow for the conduct of investigation and/or unannounced inspection in premises belonging to economic operators or associations of economic operators who carry out their activity in the field of natural gas legally and/or carry out their activities at the residence, land or means of transport belonging to legal representatives, administrators, directors and other employees of economic operators or associations of economic operators subject to the investigation to be inspected or to make the electronic information available and the subject of the electronic information available;

47. non-providing data and information, provision of inaccurate, incomplete or misleading data and information as a result of ANRE requests made pursuant to the provisions of Articles 184 and 185 par. (1) letters c) and d) and paragraph (3);

48. failure by natural gas producers to fulfil the obligations laid down in Article 124 of Regulation (EC) No/.

(1) letter e);

49. failure to fulfil obligations to ensure continuity in the supply of natural gas to final customers in the event of an end of the oil concession;

50. Failure by the transmission system operator/natural gas distribution operator to comply with the time limits for connection provided for in Article 130 (1) (e), Article 138(1)(d), Article 148 (3) and Article 151 (4);

51. Failure by the supplier to comply with the provisions of Article 143 (11);

52. failure by the distributor to comply with the provisions on confidentiality pursuant to Article 137.

#### Art. 195: Sanctions

(1) The offences referred to in Art. 194 shall be sanctioned as follows:

1. where they have been committed by natural persons:

a) With a fine from 1.000 lei to 2.000 lei, those in items 11, 12, 9, 20 and<sup>21</sup>;

b) with a fine from 2.000 lei to 4.000 lei, those in items 2, 3, 8, 22 and 34;

c) with a fine from 4.000 lei to 8.000 lei, those in items 4, 10, 26 and 40;

d) with a fine from 10.000 lei to 50.000 lei, for those provided for in items 46 and 47.

2. where they have been committed by legal persons:

a) With a fine from 5.000 lei to 100.000 lei, those in items 1, 11, 12,<sup>2</sup> 9, 12, 20, 22 and 33;

b) With a fine from 10.000 lei to 200.000 lei, those in items 3, 6, 8, 15, 16, 19, 21, 23, 30, 34 and 41 ;

c) With a fine from 20.000 lei to 400.000 lei, those in items 4, 5, 7, 10, 11, 13, 14, 17, 24, 241, 26,

27, 29, 31, 32, 39 and 40;

d) with a fine from 100.000 lei to 500.000 lei, those in items 18, 28, 36, 37 and 38;

e) Fines ranging from 5 % to 10 % of annual turnover, those in points 242, 25, 35, 351,<sup>361</sup> and 42;

f) With a fine from 50,000 lei to 100,000 lei, for failure by producers or their affiliates, as appropriate, as well as by licensed suppliers to fulfil the obligations referred to in Article 177(31) and (32) and a fine of 0,2 % to 1 % of the annual turnover for failure by producers or their affiliates, as appropriate, as well as by licensed suppliers of the obligations set out in Article 177(34)-(37).

g) by a fine from 1 % to 5 % of the annual turnover in the financial year preceding the penalty, those in points 44 and 48;

h) by a fine from 1 % to 3 % of the annual turnover in the financial year preceding the penalty, those in points 46, 47 and 49;

i) by a fine from 5 % to 10 % of the annual turnover in the financial year preceding the penalty, those in points 45, 51 and 52;

j) by a fine from 2 % to 10 % of the turnover of the year preceding the penalty, those in points 43 and 50.

(2) For the offences provided for in Article 194, except for those provided for in Art. 194, 25, 35, 351, 361,<sup>42</sup>—45, 48 and 50-52, committed repeatedly by legal entities, the regulatory authority may impose a fine of 1 % to 5 % of the annual turnover of the offender.

(2x) For the violations provided under Art. 194 items 45 and 50-52 committed repeatedly by legal entities, the regulatory authority shall withdraw the license of the offender following a final court ruling.

(3) The repeatedly committed contravention means committing at least twice the same contravention.

(4) The annual turnover means the turnover of the infringed legal entity from the licensed activity, in the financial year prior to the sanctioning of the act. If, in the financial year prior to the penalty, the undertaking did not have a turnover or cannot be determined, that of the financial year in which the offender recorded turnover, the year immediately preceding the reference year for the calculation of the turnover for the purposes of the penalty, shall be taken into account. If even in the year preceding the reference year for the calculation of turnover for the purpose of applying the penalty, the offender has not achieved a turnover, the last recorded turnover will be taken into account. If the offender is a newly established legal entity, which did not register the turnover in the year prior to the sanction, he will be sanctioned with a contravention fine from 100.000 lei to 1,000,000 lei.

(4x) For the contraventions referred to in Article 194 item 18, the regulatory authority may apply a complementary contravention sanction consisting of the prohibition of the right to participate in order to obtain new licenses.

(42) [the text of Article 195, paragraph (4A2) of Title II, Chapter XV was repealed on 25-sep-2020 by Article I, point 115 of Law 155/2020]

(5) [The text of Article 195(5) of Title II, Chapter XV was repealed on 19-July-2018 by Article I, point 80 of Law 167/2018]

(6) The application of the penalty of the contravention fine shall be prescribed within 2 years from the date of commission of the offense.

(7) By exception to the provisions of par. (6), the right of ANRE to apply contraventional sanctions for committing the contraventions provided for in Art. 194 items 44-48, 51 and 52 shall be prescribed within 36 months from the date of commission of the offense.

(8) By way of exception to the provisions of par. (1) item 2 in respect of contraventions committed by non-resident persons, the turnover to which the fine applies shall be replaced by the income obtained in Romania by the offender and recorded in his individual financial statements.

(9) If within 45 days of notification of the decision of the President of ANRE to complete the investigation, according to the provisions of this Law, the economic operator or association of economic operators concerned does not comply with the measures ordered, the competent authority may apply the maximum fine provided for in paragraph (1) item 2.

Art. 196: Finding of contraventions and application of sanctions

A finding of contraventions and the application of sanctions shall be made by persons empowered for this purpose by the president of ANRE.

Art. 197:

[The text of Article 197 of Title II, Chapter XV was repealed on 19-July 2018 by Article I, point 80 of Law 167/2018]

Art. 198: Legal regime of contraventions

The provisions of the Government Ordinance no. 2/2001, approved with amendments and additions by Law no. 180/2002, with the exception of the provisions of Art. 8 par. (2) lett. a) and Article 28 par. (1) of this last normative act shall be applicable to the violations provided under Art. 194.

Art. 199: Access for the detection of contraventions

(1) In order to detect infringements, investigators shall have access, under the law, to production objectives, natural gas systems, including related installations and equipment, as well as to natural gas installations.

(2) Owners of the facilities for use or those operating them shall be obliged to make relevant documents, data and/or information available to the investigating agents.

(3) Police bodies, as well as other bodies in the field, are obliged to provide support, upon request, to observing agents.

Chapter XVI: Transitional and final provisions Art.

200: Entry into force

(1) The provisions of Article 127 shall enter into force on 3 March 2013.

(2) At the date of entry into force of this Law, the following shall be repealed:

a) Gas Law no. 351/2004, published in the Official Gazette of Romania, Part I, no. 679 of 28 July 2004, as amended and supplemented, with the exception of Art. 6-10;

b) any other provisions to the contrary.

(3) Within 9 months from the date of entry into force of this Law, ANRE shall adapt, as appropriate, the regulatory framework in accordance with this title.

(4) Pending the adaptation, as appropriate, of the regulatory framework, all normative acts issued pursuant to Law no. 351/2004, as amended and supplemented, shall remain valid, except for the provisions that are contrary to this law.

Art. 201: Final provisions

(1) The relevant Ministry shall notify the European Commission of the adoption of this law and other administrative provisions necessary to implement the provisions of Directive 2009/73/EC, including by transmitting the texts of those acts.

(2) [The text of Article 201(2) of Title II, Chapter XVI was repealed on 04-oct-2014 by Article I, point 110 of Law 127/2014]

(3) The Government, with the opinion of the Competition Council, may decide to set up a solidarity fund for the financial support of vulnerable consumers, the contribution and/or additional taxation of the unexpected profits of electricity and gas producers and suppliers made as a result of favourable market situations and/or conjunctural transactions. The method of formation and use of the fund shall be determined by decision

of the government.

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- Title I of this Law transposes Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 on common rules for the internal market in electricity and repealing Directive 2003/54/EC, published in the Official Journal of the European Union No 211 of 14 August 2009, Directive 2005/89/EC of the European Parliament and of the Council of 18 January 2006 on measures aimed at guaranteeing security of electricity supply and investment in infrastructure, published in the Official Journal of the European Union No 33 of 4 February 2006, and the provisions of Article 4/3 of the European Parliament on the European Parliament's 4/3 Energy Directive 2004/8 on the promotion of the European Union/8 on the European Parliament's 11/8 on the basis of the European Parliament and on the Community of the European Communities (2005) of the European Union on the basis of the European Parliament and on the Community of the European Communities (89) and the provisions of Article 4 of the European Parliament on the European Parliament's 4/3 on the European Parliament's 2004/8 on the European Parliament's 11/8 on the European Parliament/4/2006 on the Council's No 4/3 on the European Parliament/2004/8 on the European Parliament 's 11/4/2006 on the Council's 4th Directive 4/3 on the European Union on 2004 February 2004 of 8 on the European Parliament's 11/4/33/4 on the European Parliament's Council Directive 11/2006 on the European Parliament's Council on 4 February 3 on the European Parliament's 2004/2004/8 on the European Parliament/2004/8 on the European Parliament's Directive 11/2004/11 on the European Parliament's Council Directive 11/11 on the European Parliament's No 92/EC of the European Parliament/EC on the European Parliament's No.

- Title II of this Law transposes Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 on common rules for the internal market in natural gas and repealing Directive 2003/55/EC, published in the Official Journal of the European Union No 211 of 14 August 2009.

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This law was adopted by the Romanian Parliament, in compliance with the provisions of Art. 75 and Article 76 paragraph (1) of the Constitution of Romania, republished.

PRESIDENT OF THE CHAMBER OF  
DEPUTIES ROBERTA ALMA ANASTASE  
PRESIDENT OF THE SENATE

VASILE BLAGA \_\_\_\_\_

Published in the Official Gazette No. 485 of 16 July 2012

The words “Ministry of Economics, Trade and the Business Environment” shall be replaced by the words “Ministry of the Economy”.