

Regulation of 2015 for licensing and authorisations in the electricity sector

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Chapter I: General provisions

SECTION 1: Authority

Art. 1

- (1) This Regulation shall be issued in accordance with the provisions of Article 9(4) of the Law on Electricity and Gas No123/2012, as amended and supplemented.
- (2) The National Energy Regulatory Authority, hereinafter referred to as ANRE, shall be empowered to grant, amend, suspend or withdraw the establishment authorisations and licenses in the electricity sector, under the terms of Law no. 123/2012, as amended and supplemented, and of this Regulation.

Section 2: Scope

Art. 2

This Regulation shall apply to economic operators to whom the establishment/licenses in the electricity sector are granted, amended, suspended or withdrawn.

Section 3: Aim

Art. 3

This Regulation lays down:

- a) the conditions for granting the establishment authorisations and the licenses provided by law;
- b) the conditions for the modification, suspension or withdrawal of establishment authorisations or licences granted;
- c) conditions for refusal to grant/modify establishment authorisations and licences.

Section 4: Abbreviations

Art. 4

The abbreviations used in the text of this Regulation are the following:

- a) Sen – National Power System;
- b) ANRE – National Regulatory Authority for Energy.

Section 5: Definitions

Art. 5

(1) The terms used in this Regulation are defined in Law 123/2012 as amended and supplemented.

(2) **For the purposes of this Regulation, the terms and expressions below shall have the following meanings:**

- a) Authorisation of establishment/authorisation* — administrative act granting a person permission to develop or refurbish energy production capacities issued by ANRE at the request of the respective person;
- b) Annual contribution* — the amount of money charged annually by ANRE to a license holder, for the entire duration of its validity, established by order of the ANRE president;
- c) License* — administrative act granting the holder permission to carry out commercial exploitation of energy capacities in the electricity and heat sector produced in cogeneration or to provide services to participants in the electricity market, issued by ANRE at the request of a Romanian or foreign individual/legal entity;
- d) Modification of the authorisation /licence— issuance by ANRE of the decision approving the modification of the authorisation/licence and/or the validity conditions of the authorisation or license;*
- e) Putting into service* — all the activities provided for in the technical design documentation and regulations in force, to demonstrate that the equipment and technological systems of an energy capacity/capacity shall behave within the limits laid down by the project at the time when it is declared appropriate to enter into commercial operation;
- f) Concessionaire distribution operator* – the legal person having the status of concessionaire in a concession contract for the provision of the public electricity distribution service; *FX* maximum electric power debited of the power generation capacity – the maximum simultaneous active electrical power that can be discharged through the power grid connection installation, provided for in a certificate of connection or a valid technical connection notice, issued for that power generation capacity;
- g) Withdrawal of authorisation/licence* — issuance by ANRE of the decision whereby an authorisation/licence holder is totally stripped of the rights conferred by that act; withdrawal shall take place at the request of the holder or at the initiative of ANRE;
- h) Suspension of authorisation/licence— issuance by ANRE of the decision whereby an authorisation/licence holder is withdrawn, in part or in total, for a defined period of time, the rights conferred by that act, ANRE may approve the continuation of its activity under controlled regime, in order not to affect the interests of electricity and heat consumers;*
- i) Fee for granting/modifying the license/authorisation* — amount of money collected by ANRE from individuals/legal entities requesting the granting or modification of licenses/authorisations, established by order ANRE; the tariff includes a component corresponding to the activity of analysing the documentation received for this purpose from the applicant, called the analysis fee;
- j) Authorisation/licence holder— natural or legal person, holder of an authorisation/license granted by ANRE.*

Chapter II: The regime of electricity authorisations and licences

Section 1: General conditions for granting authorisations

Art. 6

The competent authority shall issue authorisations for the establishment or refurbishment of power generation capacities or electricity and heat from cogeneration power plants and energy storage

facilities added to such generation capacities, as well as authorisations to set up energy storage facilities not added to an existing power generation capacity, if the maximum power flowed into the network of those capacities is greater than 1 MW or becomes greater than 1 MW.

Art. 7

ANRE shall not issue authorisations for:

- a) works for the realisation or refurbishment of power generation capacities or electricity and heat from power plants in cogeneration and energy storage facilities added to such production capacities, as well as for the construction of energy storage facilities not added to an existing power generation capacity, if the maximum power flowed into the grid of those capacities is less than including 1 MW. In such cases it shall be mandatory to notify the competent authority of the state of completion of the investment project as follows: a notification at the start of the execution work and a notification after the signing of the minutes of reception of commissioning;
- b) construction/refurbishment of electrical installations, surveillance, telecommunications and/or control systems related to energy production capacities, including power and heat generation capacities in cogeneration;
- c) works of realisation/refurbishment of power stations and lines.

Art. 8

- (1) ANRE shall establish the duration of validity of an authorisation to set up on the basis of the time taken to complete the installation and commissioning of authorised power capacities and taking into account the duration proposed by the applicant for the authorisation.
- (2) The minimum duration of validity of a registration authorisation shall be one year.

Art. 9

- (1) The creation authorisation for the realisation/refurbishment of a power generation capacity, including the production of electricity and heat in cogeneration, or the creation of new storage facilities, comprising several groups/production units/installations, may contain a stage of commissioning of the respective components according to the documentation submitted by the applicant.
- (2) In the event of the establishment/refurbishment of a power generation capacity or of electricity and heat produced in cogeneration with a maximum cut-off power exceeding 1 MW, which comprises a biogas/biomethane production, storage and use facility, ANRE shall grant an authorisation to set up, for energy capacity, and an authorisation to set up the biogas/biomethane production plant, as applicable to the provisions of the natural gas Regulation, such as the provisions of the Regulation, and the provisions of this Regulation. Joint documents shall be submitted in a single copy accompanied by a self-declaration of the applicant's legal representative showing that these documents may be used by ANRE on both applications for granting authorisations to set up.
- (3) In case of establishment/refurbishment of a power generation capacity or of electricity and heat produced in cogeneration with the maximum cut-off electrical power of less than 1 MW inclusive, which comprises a biogas/biomethane production, storage and use facility, ANRE shall grant an authorisation to set up, exclusively for the biogas/biomethane plant, the provisions of the Regulation on authorisation of natural gas activities, approved ANRE.

Art. 10

(1) 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 exploitation of energy storage facilities not added to an existing production capacity; where the storage facility is installed within an existing production capacity, the holder of the production capacity and the storage facility concerned shall request the competent authority to amend the commercial exploitation licence of the production capacity already granted, in order to include the storage facility and its activity.

(2) The activities referred to in paragraph 1 (b) shall also include the commercial exploitation of the capacity for separate heat generation which are located in common premises with cogeneration capacities, with technological connections, as well as joint management and operation with these cogeneration capacities.

(3) Commercial exploitation of the power generation capacities may be carried out, without having a license granted by ANRE, 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.

(4) The supply of the distribution service is permitted without a licence, on the basis of a decision of **confirmation of closed distribution system, distribution system operators of closed distribution systems, including:**

- Distribution operators or administrators of industrial parks within industrial parks established according to 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, as amended and supplemented;
- other economic operators that own distribution networks supplying consumption places outside industrial parks, i.e. free zones, with approved electrical powers of less than 3 MW.

(5) **The provisions of paragraph 4 shall apply to distribution operators or managers in industrial parks/free zones including electricity grids located outside the limits of industrial parks, i.e. free zones, up to the point of demarcation with the concessionaire's 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.

(6) The activity of a natural or legal person of resale of electricity to users of electricity networks in operation shall be carried out without a licence for the supply of electricity referred to in paragraph 1(g), subject to specific regulations approved by the competent authority.

(7) The activity referred to in paragraph 1 lett. g) or h) may be carried out in Romania by a legal person having its registered office in one of the Member States of the European Union, without having the license granted by ANRE, if the foreign legal person holds a valid license or similar document for that activity, issued by the competent authority of the Member State, and declares on his own responsibility that it will comply with the technical and commercial rules of Romania applicable for that activity.

(8) In the situation referred to in paragraph 7, ANRE shall issue a decision in accordance with and in compliance with the Procedure confirming the right to participate in the Romanian electricity markets of foreign legal entities having their registered office in a Member State of the European Union, approved by order of the President of ANRE.

Art. 11

(1) For the activities referred to in Article 10 (1) (a) and (b) a single licence shall be issued, common to activities of commercial exploitation of capacities for the production of electricity and heat in cogeneration.

(2) For the activities referred to in Article 10 (1) (c) and d) and for the management of the balancing market falling within Article 10(1)(f), carried out by the transmission system operator, a single licence, common to those activities, shall be issued.

(3) The granting of a licence for the commercial exploitation of a capacity for the production of electricity or heat generation in cogeneration, which comprises installations for the production, storage and use of biogas/biomethane, respectively, and the modification of an existing licence in order to include under its specific conditions a new energy capacity of this kind shall be conditional on:

a) the authorisation to set up/operate these installations in accordance with the NAER regulations applicable to both electricity and natural gas; For the operation of installations for the production, storage and use of biogas, respectively, for the purpose of the safe operation of these installations, the licence applicant may choose to conclude a contract with an economic operator holder of the specific authorisation for this type of objectives, granted by the ANRE in accordance with the provisions of the Regulation for the authorisation of economic operators performing activities in the field of natural gas and the framework conditions for validity of the authorisations, approved by the Order of the President of the National Energy Regulatory Authority in accordance with the Regulation for the authorisation of economic operators performing activities in the field of natural gas and the framework conditions for validity of authorisations, approved by the Order of the President of the Energy Regulatory Authority in accordance with the Regulation for the authorisation of economic operators performing natural gas activities and the framework conditions of validity of the permits, approved by the Order of the President of the National Regulatory Authority in the Field of Energy, in accordance with the Regulation for the authorisation of the economic operators performing natural gas activities and the framework conditions for validity of authorisations, approved by the President of the National Energy Authority, in accordance with the Regulation for the authorisation of the economic operators performing natural gas activities and the framework conditions for validity of authorisations for the authorisation of the National Energy Regulatory Authority, in accordance with the Regulation No.t., in the Annex, in the case of the application of the Regulation No., in accordance with the Regulation No.t.

b) the commissioning of the installation for the production, storage and use of biogas/biomethane, respectively, confirmed by the receipt of commissioning report, which shall be submitted in copy to the application for granting/modification of the licence.

Art. 12

- (1) The licence holder may not simultaneously hold two licences of the same type.
- (2) The holder of the licence referred to in Article 11 (2) may not simultaneously hold any of the licences referred to in Article 10 (1) (a), b), e), g) to j).
- (3) The concessional distribution operator, the holder of the licence for the provision of the electricity distribution service, may not simultaneously hold any of the licences referred to in Article 10 (1) (a)—c) G)-j).
- (4) The distribution operator, the holder of the licence for the provision of the electricity distribution service, may not simultaneously hold the licence provided for in Article 10 (1) (i) and j).
- (5) The license holder for the electricity supply activity may not simultaneously hold a licence for the activity of electricity trader, the trader-specific rights being included in the licence for the electricity supply activity he owns.
- (6) The holder of the licences referred to in Article 10 (1) (a), b) and j) shall not simultaneously hold a licence for the activity of electricity trader, the trader activity being included in those licences.

Art. 13

- (1) The period of validity of a license shall be determined by ANRE, taking into account the data submitted by the license applicant when granting it, and shall be of maximum:
 - a) 25 years, for any of the licences referred to in Article 10 (1) points a) to f) and j);
 - b) 10 years, in the case of licences for the supply of electricity, for the activity of the electricity trader and for the aggregation activity, provided for in Article 10(1)(g)-i).
- (2) At least 60 days before the maximum period of validity referred to in paragraph 1 has been completed, the holder may apply for a new licence.

Art. 14

When granting a license, ANRE may establish complementary rights specific to other types of licenses.

Section 3: Applicants for authorisations/licenses

Art. 15

- (1) May apply for authorisations/licenses to Romanian or foreign legal/physical persons.
- (2) A foreign legal entity outside the European Union may apply for authorisations/licenses only if it has established in Romania, under the terms of the law, a secondary establishment for the entire period of validity of the authorisation/licence necessary for the performance of its activities.
- (3) [The text of Article 15(3) of Chapter II, Section 3 was repealed in 01-ian-2021 by Article I, point 8 of Order 197/2020]
- (4) [The text of Article 15(4) of Chapter II, Section 3 was repealed in 01-ian-2021 by Article I, point 8 of Order 197/2020]
- (5) The natural persons referred to in paragraph 1 shall prove to ANRE that they fulfil the conditions laid down in the relevant legislation on the organisation and conduct of economic activities by authorised natural persons, individual undertakings and family undertakings.

Art. 16

(1) ANRE shall not issue authorisations/licenses to the following categories of economic operators:

- a) economic operators who are in judicial reorganisation or bankruptcy proceedings and who do not carry out on the date of application, under another licence/authorisation, the activity for which they apply for the licensing/authorisation;
- b) Economic operators who are in the situation referred to in Art. 9 par. (3) of Law no.123/2012, as amended and supplemented;
- c) foreign individuals outside the European Union.

(2) By way of derogation from the provisions of paragraph (1) lett. a), ANRE shall issue authorisations/licenses to the economic operators referred to in paragraph (1) letter a) who apply for licenses on whose granting it depends:

- a) continuity of supply of electricity or electricity and heat produced from cogeneration to final customers;
- b) completion of some works/realisation of activities decided within the judicial reorganisation plan approved by the court.

Chapter III: Application and granting of authorisations and licences SECTION 1: Documents

required for all types of authorisations and licences

Art. 17

(1) In order to obtain an authorisation/licence, the applicant shall submit to ANRE an application containing the data and information from the model set out in Annex no. 1, together with the documents necessary for granting the authorisation/licence in accordance with this Regulation.

(2) The applicant is obliged to provide ANRE in the application for granting/modifying the authorisation/licence the complete contact details of the applicant, namely the address of the registered office, telephone number, fax number and e-mail address of the applicant, as well as of his legal representative.

(3) The application and the documents attached to it, referred to in paragraph 1, as well as the correspondence between the applicant and ANRE shall be drawn up in Romanian.

(4) The applicant shall submit to ANRE the documents to be attached to his application in paper form and, if necessary, in electronic form, at the request of ANRE.

(5) The documents accompanying the application for authorisation/licence shall be signed on each page by the applicant's legal representative or by a person empowered by him.

(6) When registering an application for granting or amending an authorisation/licence, the applicant shall prove that he has paid the analysis fee in advance, according to the legal provisions.

The analysis rate:

a) it shall be deducted from the fee for granting or amending the authorisation/licence, which shall be levied in relation to the favourable settlement of the application;

b) representing the value of the documentation analysis activity attached to the respective application, it shall not be returned to the applicant if ANRE refuses to grant or modify the authorisation/licence or closes the documentation.

(7) If it is found that the amount related to the analysis tariff was not actually transferred to the ANRE account. The request received shall be registered with a correspondence nature and shall not be included in the work plan.

(8) The application shall be terminated if no proof of payment has been furnished within 10 days of the date of registration, notifying the applicant of the completion of the application and the possibility

to request the refund of the documentation attached to the application.

Art. 18

(1) To the application for authorisation/licence, the applicant shall attach:

- a) the certifying certificate, in original or copy, issued by the business register office, with complete information reflecting the applicant's state of play and showing that he is working for the service/activity for which authorisation/licence is sought;
- b) extracts, in copy, from the last financial situation submitted according to the law of the applicant with the competent tax bodies, prior to the registration with ANRE of the application for authorisation/licence, including the first page of these financial statements, with proof of registration with tax bodies, balance sheet and profit and loss account, except for the applicant holder of other licenses already in ANRE record; in the case of the applicant submitting an application for an authorisation/licence during the year in which it was established, the copy of the last monthly verification balance shall be attached;
- c) declarations, in original or certified copy, of the shareholders/associates holding the control of the applicant, and, where applicable, of the administrators, members of the Management Board or of the Supervisory Board of the applicant, drawn up, for each of them, in accordance with Model 2.1 of Annex No 2.

(2) Where the State or an authority of the local public administration is a controlling shareholder, the provisions of paragraph 1 (c) shall apply only to administrators, members of the Board of Directors or of the Supervisory Board of the applicant or, where applicable, the representative of the local public administration authority.

(3) If an applicant submits to ANRE at the same time several applications for the granting of separate establishment authorisations/licenses, the common documents shall be submitted in one copy.

Section 2: Specific documents to be requested when granting authorisation/licence

Art. 19

(1) The following documents shall, in addition to the documents referred to in Article 18, be attached to the application for an authorisation to set up the applicant:

- a) the documents – in copy – by which the applicant has acquired the status of owner, concessionaire or holder with any legal title of the land and/or construction, on which/in which the energy capacities that are established/refurbishment are located;
- b) land-book extracts, issued in the year of application for authorisation, proving the registration in the land book of the rights on immovable property referred to in letter a), for which the entrant is required under the law;
- c) table with land/construction records and documents supporting the rights of the applicant for authorisation on these real estates, compiled according to model no. 3.1 of Annex no. 3;
- d) proof of notification of the intention to achieve/refurbishment of energy capacities submitted to the local public administration authority for public information;
- e) proof of publication in mass-media, usually local, of the intention to achieve/refurbishment of energy capacities;
- f) the technical and economic indicators of the energy investment/capacity for which the establishment authorisation is required, resulting from the feasibility study, approved by the applicant's authorised persons;
- g) the presentation/explanatory memorandum, in which the applicant shall include technical and

economic data relating to each of the energy capacities the object of the work for which the authorisation to be established is sought, supplemented in a table of the format set out in Annex 4 and any clarifications which the applicant deems useful, as regards the understanding of his technical options, financing of the investment or explanation of the documents submitted;

- h) documents resulting from the sources of financing of the works, such as: available capital allocated to that investment by the economic operator, binding documents issued by banking institutions (such as credit/credit lines, letters of comfort), loans granted by banking institutions, individuals/legals, national or international bodies providing non-reimbursable financing, share issues attracting market capital, other contractual or pre-contractual documents relating to the financing of the investment;
- i) the technical notice of connection within the term of validity, accompanied by the connection contract where it has been concluded;
- j) the environmental agreement or decision on the assignment of the investment project issued/issued by the competent authority for environmental protection;
- k) the energy capacity site plan, including the necessary information on the identification of land occupied by the energy capacity components and their position in relation to other existing or in the process of setting up in that geographical area;
- l) the declaration of the applicant for authorisation that, when establishing the sites of the components of the energy capacity subject to authorisation, existing or in the process of setting up objectives in accordance with existing authorisations in the vicinity of energy capacities, with respect to which safety distances are established in the current technical rules, have been identified and the safety distances from the identified objectives have been observed. The declaration shall be attached to the table drawn up in accordance with model No 3.2 set out in Annex No 3;
- m) note on the stages of carrying out the work to be carried out on the basis of the authorisation to set up the requested and put into service the resulting capacities, as well as the total duration of the investment project;
- n) the applicant's own responsibility statement that only contractors/subcontractors certified according to ANRE regulations will be employed for the design and execution of electrical installations that are subject to the authorisation of establishment.

(2) Where the applicant submits documents drawn up in the pre-contractual phase relating to the financing of the realisation of energy capacities, the applicant shall submit to ANRE, within a time limit set under the conditions associated with the establishment authorisation, contracts providing the financing of the works covered by the authorisation.

(3) In case of application for the establishment authorisation for the realisation/refurbishment of a thermoelectric power generation capacity, which falls within the provisions of Art. 14 par. (6) of Law No 121/2014 on energy efficiency, in addition to the documents referred to in paragraph (1), the applicant shall also present documents issued by the local government authorities of the plant area and, where appropriate, by the central public administration authorities, resulting in the conclusions of the evaluations and analyses carried out in accordance with the provisions of Article 14(1) and (3) on the implementation of the Energy Directive no.2014, in respect of the implementation of the potential of the Energy Directive.

(4) If it appears from the documents referred to in paragraph (3) that in the geographical area in the vicinity of the one where the energy capacity covered by the authorisation will be established/retechnological, a potential for the implementation of high efficiency cogeneration has been identified in accordance with the provisions of Art. 14 par. (4) of Law no. 121/2014, the applicant shall carry out and submit to ANRE a cost-benefit analysis drawn up in accordance with the provisions of Art. 14 paragraph (6) of Law no. 121/2014; in this case the decision granting/refusing the authorisation to set up shall be based on the conclusions of the cost-benefit analysis presented.

- (5) Where it appears from the documents referred to in paragraph 3 that no potential for the implementation of high-efficiency cogeneration has been identified in the geographical area in the vicinity of the one where the energy capacity covered by the authorisation will be set up/retechnological or where there is no analysis of the potential for the implementation of high-efficiency cogeneration carried out under Law No 121/2014, by way of derogation from paragraphs 3 and 4, the applicant shall submit notifications from the local/central government authorities confirming this fact.
- (6) ANRE shall have the right to adopt, in the case referred to in paragraph 4, a decision authorising an individual energy installation different from the results of local/national assessments which identify the existence of a potential for the application of high efficiency cogeneration, if there are imperative legal, ownership or financial reasons for this purpose, proven by the applicant, in accordance with the provisions of Art. 14 paragraph (11) of Law No 121/2014.
- (7) The decision referred to in paragraph 6 and the reasons therefor shall be notified to the European Commission within 3 months of its adoption.

Art. 20

- (1) **For the purposes of granting a licence for the commercial exploitation of power generation or electricity and heat from cogeneration power plants and energy storage facilities added to such production capacities, and for the grant of a licence for the commercial exploitation of energy storage facilities not added to an existing power generation capacity, in addition to the documents referred to in Article 18, the applicant legal person shall attach:**
- a) the addresses of the sites where power generation capacities are installed, the operation of which requires the licence to be granted;
 - b) the technical characteristics of the energy capacities referred to in point (a), in accordance with the table in Annex No 4;
 - c) **the technical characteristics of the power grids under the management of the licence applicant, as set out in point 4 of the table in Annex No 4, electrical networks intended for:**
 - discharge into the SEN of the electrical power generated by the capacities under the management of the licence applicant;
 - ensuring access to public-interest electricity networks for users other than the licence applicant;
 - d) the organisation chart of the requesting economic operator, valid on the date of application for the licence, indicating the organisational entity responsible for carrying out the activity for which the licence is applied for;
 - e) the statement concerning the applicant's staff structure, by specialty, certifying the qualification of the personnel allocated to the activity for which the licence is applied for, of which a sufficient number of authorised electricians and specialised personnel shall be part, in relation to the volume of activities/managed installations; if the applicant does not employ any authorised electrician, he may submit a service contract for carrying out the activities related to the operation and maintenance of electrical installations, concluded with an economic operator certified by ANRE or with authorised natural persons holding the status of authorised electrician;
 - f) the estimated turnover will be achieved in the year of granting the license requested as a result of the activities covered by it, except for the applicant holder of other licenses granted by ANRE;
 - g) the minutes of acceptance of the commissioning of energy capacity, signed by the applicant's legal representatives, resulting in the commissioning of energy capacities;
 - h) documents proving the ownership or use of those energy capacities, for the purposes of which the economic operator applies for the commercial exploitation of the licence;
 - i) the connection certificate issued by the network operator corresponding to the development stage(s) provided for in the technical connection notice, except as provided for in paragraph 4;

j) documents attesting the commencement by the applicant of the procedure necessary for obtaining the environmental authorisation.

(2) [The text of Article 20(2) of Chapter III, Section 2 was repealed in 01-ian-2021 by Article I, point 12 of Order 197/2020]

(3) [The text of Article 20(3) of Chapter III, Section 2 was repealed in 01-ian-2021 by Article I, point 12 of Order 197/2020]

(4) In the case of power plants for which, according to the technical regulations issued by ANRE, it is necessary to obtain a certificate of technical conformity, if the applicant submits to ANRE, instead of the document referred to in paragraph (1) letter i), the certificate of technical conformity with temporary validity issued in accordance with the provisions of the procedure for the placing under the probation of the test period and the certification of the technical compliance of the wind and photovoltaic power plants, approved by order of the ANRE president, the license shall be granted on the basis and on the validity of the certificate of validity of the technical operator in the temporary validity, with the extension of the validity of the certificate with the temporary validity.

Art. 21

(1) In order to grant a licence for the provision of the electricity transmission service and the system service and for the management of the balancing market, the applicant shall attach to his application, in addition to the documents referred to in Article 18, a presentation of the technical, organisational and human resources framework for carrying out these activities.

(2) **The presentation of the technical framework for carrying out the activities referred to in paragraph 1 shall include:**

- a) centralised tables, for power lines and power stations in the transmission grid;
- b) total power installed in power station transformers in the transmission grid;
- c) monofilar electrical schemes on which the demarcation points between the transmission grid operated by the licence applicant and the installations of transmission system operators in neighbouring countries, i.e. producers, electricity distribution operators or serviced customers may be located;

conformity regarding electricity lines and power stations in the electricity transmission network in the national stereographic coordinate system 1970, according to the scheme published on the website of the National Energy Regulatory Authority by 31 December 2019;

- d) the list and technical data relating to the dispatching systems operated, as well as the technical and physical facilities used (computer and communication infrastructure, buildings, software, other technical systems, etc.);

- e) list and data on the platform used for the balancing market as well as its technical and physical facilities (computer and communication infrastructure, buildings, software, other technical systems, etc.);

- f) documents proving the ownership or use of those energy capacities, for the purposes of which the economic operator applies for the commercial exploitation of the licence;

- g) the minutes of acceptance of the commissioning of a new or refurbished energy capacity, signed by the legal representatives of the applicant, resulting in the commissioning of energy capacity;

- h) the certificate of connection issued by the network operator to which the installations of the applicant are connected, where appropriate;

- i) contracts by which it acquired ownership of components of the transmission grid and, where applicable, the concession contract by which it acquired the right of use over the state-owned electricity transmission network;

j) declaration of the members of the Governing Board, the Board of Directors and the Supervisory Board of the applicant on compliance with the conditions for certification laid down by law.

(3) The presentation of the organisational and human resources framework for carrying out the activities referred to in paragraph 1 shall include:

a) the organisation chart of the applicant economic operator of the licence, valid on the date of application for the licence;

b) personnel statement – staff structure, by specialties, certifying the qualification of the personnel allocated to the activities for which the licence is applied for, of which a sufficient number of authorised electricians must be part, in relation to the volume of activities/managed installations; the personnel provided by an economic operator certified by ANRE may be added to their staff, with whom the applicant has concluded a service contract for carrying out the activities related to the operation and maintenance of electrical installations.

(4) In addition to the documents referred to in paragraphs 2 and 3, the licence applicant shall notify in writing the estimated turnover of the activities covered by the licence applied for in the year of its granting.

Art. 22

(1) In order to grant a licence for the management of a centralised electricity market(s), the applicant shall attach to his application, in addition to the documents referred to in Article 18, a presentation of the technical and organisational framework and human resources necessary for carrying out this activity.

(2) The presentation of the technical and organisational and human resources framework will include:

a) the organisation chart of the applicant economic operator, valid on the date of application for the licence, indicating the department responsible for carrying out the activity for which the licence is applied for;

b) personnel statement – staff structure, by specialties, certifying the qualification of the personnel allocated to the activity for which the licence is applied for;

c) list of centralised electricity markets and green certificates on which the applicant intends to manage them on the basis of the license, according to the ANRE regulations;

d) the list of the main software products in the current operation of the requesting economic operator for the purpose of administering the centralised electricity market(s) referred to in point c), with particulars on the ownership of the rights of use of these software products;

e) the list of technical and physical means allocated by the applicant to the administration of the electricity market(s) referred to in point c), such as buildings, information and communication infrastructure elements and other technical systems, etc.;

f) internal working procedures confirming the protection of commercially sensitive information which the applicant obtains and manages in the management of centralised electricity markets.

(3) The applicant shall attach to the application documents showing that he has at least EUR 1000000 at the exchange rate of the National Bank of Romania valid on the date of registration of the license application.

(4) In addition to the documents referred to in paragraphs 2 and 3, the licence applicant shall notify in writing the estimated turnover of the activities covered by the licence applied for in the year of its granting.

Art. 23

(1) In order to grant a licence for the provision of the electricity distribution service, the applicant

legal person shall attach to his application, in addition to the documents referred to in Article 18, a presentation of the technical and organisational framework and human resources necessary for carrying out this activity.

(2) The presentation of the technical framework will include:

- a) delimitation of the area of activity in which the applicant is to provide the electricity distribution service (e.g.: county, enclosure, building, etc.);
- b) centralised tables for power lines, i.e. medium and high voltage power stations and transformer stations, specifying technical data such as rated voltages, installed power in power station transformers in the distribution network, lengths of lines within this network;
- c) high-voltage monofilar electrical schemes, on which the demarcation points are represented between distribution installations operated by the licence applicant and the installations of the transmission system operator, or of producers or other electricity distribution operators; conformity regarding power lines, i.e. power stations and medium and high voltage transformers in electricity distribution networks, in the national stereographic coordinate system 1970, according to the scheme published on the website of the National Energy Regulatory Authority until 31 December 2019;
- d) the list of energy capacities located at the boundary between the area of activity defined under the specific conditions associated with the licence and the areas of activity of other distribution operators, in the case of applicants for concessionary economic operators, or the declaration that such energy capacities do not exist;
- e) data on low-voltage electrical installations, specifying rated voltages, lengths of power lines and connections;
- f) the number of users connected to the installations of the licence applicant, broken down by type of user, specifying the total power approved for each type of user; electricity generation capacities will also be broken down by type of primary energy source;
- g) the connection certificate issued to the licence applicant by the network operator to which its installations are connected in accordance with the applicable regulations;
- h) documents proving the ownership or use of energy capacities those, for whose commercial exploitation the economic operator applies for the grant of the licence;
- i) the acceptance of the concessionaire distribution operator, in the case of the applicant intending to provide the electricity distribution service using its own electrical distribution networks, in an area leased to another distribution operator, as defined in the Specific Conditions associated with the licence granted to the latter;
- j) specifying customer relations centres;
- k) specifying the information points located in relation to the places of consumption of final customers benefiting from universal service under the law.

(3) The presentation of the organizational and human resources framework will include:

- a) the organisation chart of the applicant economic operator, valid on the date of application for the licence, indicating the department responsible for carrying out the activity for which the licence is applied for;
- b) personnel statement – staff structure, by specialties, certifying the qualification of the personnel allocated to the activity for which the licence is applied for, of which a sufficient number of authorised electricians must be part, in relation to the volume of activities/managed installations; the personnel provided by an economic operator certified by ANRE may be added to their staff, with whom the applicant has concluded a service contract for carrying out the activities related to the operation and maintenance of electrical installations.

(4) In addition to the documents referred to in paragraphs 2 and 3, the licence applicant shall forward:

- a) the estimated turnover was realised from the carrying out of the activities covered by the licence

applied for in the year of its granting;

b) proof of fulfilment of the conditions of separation of the activity, according to the law, in the case of concessionary distribution operators;

c) copy of the concession contract concluded with the conceding authority in the case of concessionary distribution operators.

Art. 24

(1) In order to grant a licence for the supply of electricity, the applicant legal person shall attach to his application, in addition to the documents referred to in Article 18, a presentation of the organisational and human resources framework necessary for carrying out this activity.

(2) The presentation of the organizational and human resources framework will include:

a) specifying the premises of the requesting economic operator, where the activity related to the supply of electricity is to be carried out;

b) specifying customer relations centres, including information points; in the case of applicants designated as suppliers of last resort, they must prove that the location conditions laid down by law are met;

c) the organisation chart of the applicant economic operator, valid on the date of application for the licence, indicating the department responsible for carrying out the activity for which the licence is applied for;

d) personnel statement – staff structure, by specialties, certifying the qualification of the personnel allocated to the activity for which the licence is applied for.

e) documents demonstrating the past experience of the applicant or one or more of the senior managers or employees of the applicant with higher education, in the activity of electricity trading, such as REVISAL extracts, etc.; where the applicant is newly established, documents demonstrating previous experience in the electricity trading activity of the partners or shareholders exercising control over the start-up company or one or more of the managers or employees of the applicant with higher education in this activity shall be submitted.

(3) The applicant shall attach to the application documents showing that he has a sum of money at least equal to 25 % of the estimated turnover in the first 12 months of his activity as an electricity supplier, but not less than EUR 100,000, which comes from one or more of the following resources:

a) equity – the value of which is calculated on the basis of data from the last monthly verification balance according to the formula used to draw up the annual financial statements which the economic operator communicates to the tax authorities;

b) the available from bank credit lines enjoyed by the applicant economic operator, in accordance with the supporting financial documents;

c) financial resources that the associations and/or shareholders of the applicant make available to him through financing/loan contracts or other types of contracts accompanied by supporting financial documents.

(4) Amounts falling within the category referred to in paragraph 3(a) and (b) may be included in the financial security which the applicant is required to lodge and maintain for the duration of the licence.

(5) The value of the turnover estimated to be realised during the first 12 months of activity according to paragraph (3) shall be communicated to ANRE by a declaration on its own responsibility, signed by the legal representative of the applicant. The same declaration shall mention the value of the estimated turnover from the activity covered by the licence applied for in the year of its granting.

(6) Where the applicant for a licence for the supply of electricity is also licensed as referred to in Article 10 (1) (a) or b), the book value of the electricity generation or heat generation capacity in

cogeneration shall be taken into account in determining the amount of the financial resources referred to in paragraph 3, together with the amounts resulting from the resources referred to in paragraph 3.

Art. 25

(1) For the purpose of granting a licence for trader activity, the applicant legal person shall attach his application, in addition to the documents referred to in Article 18, a presentation of the organisational and human resources framework necessary for carrying out this activity.

(2) **The presentation of the organizational and human resources framework will include:**

- a) specifying the premises of the requesting economic operator, where the electricity trader is to be carried out;
- b) personnel statement – staff structure, by specialties, certifying the qualification of the personnel allocated to the activity for which the licence is applied for.
- c) documents demonstrating the past experience of the applicant or one or more of the senior managers or employees of the applicant with higher education, in the activity of electricity trading, such as REVISAL extracts, etc.; where the applicant is newly established, documents demonstrating previous experience in the electricity trading activity of the partners or shareholders exercising control over the start-up company, or one or more of the managers or employees of the applicant with higher education in this activity, shall be provided.

(3) **The applicant shall attach to the application documents showing that he has a sum of money at least equal to 25 % of the estimated turnover in the first 12 months of his activity as an electricity trader, but not less than EUR 100,000, which comes from one or more of the following resources:**

- a) equity – the value of which is calculated on the basis of data from the last monthly verification balance according to the formula used to draw up the annual financial statements which the economic operator communicates to the tax authorities;
- b) the available from bank credit lines enjoyed by the applicant economic operator in accordance with the supporting financial documents;
- c) financial resources which the applicant's associations and/or shareholders make available to the applicant through financing/loan contracts or other types of contracts accompanied by supporting financial documents.

(4) Amounts falling within the category referred to in paragraph 3(a) and (b) may be included in the financial security which the applicant is required to lodge and maintain for the duration of the licence.

(5) The value of the turnover estimated to be realised during the first 12 months of activity according to paragraph (3) shall be communicated to ANRE by a declaration on its own responsibility, signed by the legal representative of the applicant. The same declaration shall mention the value of the estimated turnover from the activity covered by the licence applied for in the year of its granting.

Art. 251

(1) For the purpose of granting a licence for the aggregation activity, the applicant shall attach to his application, in addition to the documents referred to in Article 18, a presentation of the technical and organisational and human resources framework necessary for carrying out this activity.

(2) **The presentation of the technical and organisational and human resources framework will include:**

- a) specifying the address of the applicant's premises(s) in which the aggregation activity is to be carried out, as well as the telephone number of the department responsible for carrying out the activity for which the license is applied for or of a person insuring the relationship with customers;

- b) the organisation chart of the applicant economic operator, valid on the date of application for the licence, indicating the department responsible for carrying out the activity for which the licence is applied for;
- c) personnel statement – staff structure, by specialties, certifying the qualification of the personnel allocated to the activity for which the licence is applied for;
- d) a statement that the applicant is not affiliated with/will be related to the electricity supplier of its customers at both the date of application and the duration of the licence;
- e) documents demonstrating the past experience of the applicant or one or more of the senior managers or employees of the applicant with higher education, in the activity of electricity trading, such as REVISAL extracts, etc.; where the applicant is newly established, documents demonstrating previous experience in the electricity trading activity of the partners or shareholders exercising control over the start-up company or of one or more of the managers or employees of the applicant with higher education in this activity must be submitted;
- f) a note of the electricity market(s) in which they are to participate as a market participant involved in the aggregation;
- g) the list of the main software and/or other information and communication infrastructure and/or other technical systems, etc., in the day-to-day operation of the applicant, used for the purpose of carrying out the activity for which the licence is requested, with particulars on the ownership of the rights of use of such software/goods;
- h) confirmation issued by the transmission system operator through which they are validated: meeting the communication and integration requirements in the transmission system operator's IT systems, operating requirements, integration into dispatch structures and integration into the measurement system;
- i) information on the types of aggregated entities (producers, consumers, storage operators, prosumers, etc.);
- j) a plan for the collection of data on the energy consumption of customers, the assessment of their consumption profile and the identification of opportunities for saving electricity or, where appropriate, the optimum use of resources;
- k) an internal working procedure confirming the protection of commercially sensitive and personal information of customers which the applicant obtains and manages in the aggregation business.

(3) The applicant shall attach to the application documents showing that he has an amount of money at least equal to 25 % of the estimated turnover in the first 12 months of the activity as an aggregator, but not less than EUR 100,000, at the exchange rate of the National Bank of Romania valid at the date of registration of the application, which comes from one or more of the following resources:

- a) equity – the value of which is calculated on the basis of data from the last monthly verification balance according to the formula used to draw up the annual financial statements which the economic operator communicates to the tax authorities;
- b) the available from bank credit lines enjoyed by the applicant economic operator, in accordance with the supporting financial documents;
- c) financial resources which the applicant's associations and/or shareholders make available to the applicant through financing/loan contracts or other types of contracts accompanied by supporting financial documents.

(4) Amounts falling within the category referred to in paragraph 3(a) and (b) may be included in the financial security which the applicant is required to lodge and maintain for the duration of the licence.

(5) The value of the estimated turnover shall be realised in the first 12 months of the activity according to paragraph (3) shall be communicated to ANRE by a declaration on its own responsibility,

signed by the legal representative of the applicant. The same statement also mentions the value of the estimated turnover from the activity covered by the licence applied for in the year of granting it.

Art. 252

(1) The applicant for one of the types of licences referred to in Art. 10 par. (1) lett. a), b) g), h) or j) may apply by applying for the respective license and granting the right to carry out the activity of aggregation, in which case the application will be accompanied by the documents referred to in Art. 251 par. (2) lett. f-k).

(2) If ANRE approves the request referred to in paragraph 1, the right to carry out the aggregation activity shall be included as a complement to the respective license.

Art. 253

(1) The holder of one of the types of licences referred to in Art. 10 par. (1) lett. a), b), g), h) or j) may carry out the aggregation activity based on the license held, only if the license holder requests ANRE to grant this right and if his application is accompanied by the documents referred to in Art. 251^{par.}

(2) letter f)-k).

(2) If ANRE approves the request referred to in par. (1), the license provided by art. 10 par. (1) lett. a), b), g), h) or j) shall be amended by including the right to carry out the aggregation activity as a complementary right in the respective license.

Art. 26

(1) **Upon application for a license to set up/refurbish an energy capacity to produce electricity or to produce electricity and heat from power plants into cogeneration or to create new energy storage facilities, the applicant individual shall attach:**

- a) copy of the ID, in the case of Romanian citizens and citizens of the Member States of the European Union;
- b) copy of the passport and documents resulting from the residence in Romania, in case of foreign nationals;
- c) the self-declaration, drawn up in accordance with model 2.2 set out in Annex No 2;
- d) the certifying certificate, in original or copy, of the situation and registration as an independent providing natural person of an economic activity issued by the business register office, reflecting the applicant's up-to-date situation;
- e) the documents referred to in Art. 19 par. (1) lett. a)-n).

(2) **Upon application for a licence for the commercial exploitation of electricity or heat and power generation capacities from cogeneration power plants and energy storage facilities added to such production capacities, and for the grant of a licence for the commercial operation of energy storage facilities not added to an electricity generation capacity, the requesting natural person shall attach:**

- a) copy of the ID, in the case of Romanian citizens and citizens of the Member States of the European Union;
- b) copy of the passport and documents resulting from the residence in Romania, in case of foreign nationals;
- c) the self-declaration, drawn up in accordance with model 2.2 set out in Annex No 2;
- d) the certifying certificate, in original or copy, of the situation and registration as an independent providing natural person of an economic activity issued by the business register office, reflecting the applicant's up-to-date situation;

e) the documents referred to in Art. 20 par. (1) lett. a)-j).

Section 3: Solving the application for authorisation/licence

Art. 27

(1) ANRE shall examine whether the documentation submitted by the applicant complies with the provisions of this Regulation and, where appropriate, shall notify the applicant of the completions, corrections or clarifications to be made within a maximum of 60 calendar days from the date of registration of the request.

(2) The applicant shall be obliged to submit the information required by ANRE within 90 days of receipt of the request for completion of the documentation.

(3) If the applicant fails to respond within the time limit referred to in paragraph 2, or if within 6 months from the date of registration of the application the submitted documentation is not complete, it shall be automatically entered, with ANRE notifying the applicant accordingly.

(4) ANRE shall issue the decision to grant the authorisation/licence within 60 days from the date on which the documentation annexed by the applicant is complete and complies with the provisions of this Regulation.

(5) If the documentation does not meet the requirements of this Regulation, ANRE shall issue a decision on refusal to grant authorisation/licence.

(6) In the case of applications for authorisations to establish/refurbishment of units/capacities for production from renewable energy sources or high-efficiency cogeneration and licences for their commercial exploitation, the period referred to in paragraph 4 shall be reduced to 30 days if the conditions laid down in this Regulation are met.

Art. 28

In the process of analysing the documentation, depending on the quality and complexity of the information submitted by the applicant, ANRE has the right to:

- a) to convene at ANRE headquarters the authorised representatives of the applicant in order to clarify issues related to the submitted documents;
- b) verify on the spot the existing situation(s) at the request of the Directorate-General;
- c) require any other documents whose obligation to provide arises from legislative acts subsequent to this Regulation or the verification of which is necessary to clarify the information contained in the documentation submitted by the applicant.

Art. 29

(1) When granting or refusing authorisation/licence, account shall be taken, as appropriate, of the following elements resulting from the analysis of the documents submitted by the applicant:

- a) compliance of the applicant, by reference to the provisions of Articles 15 and 16;
- b) the completeness of the documentation, including in relation to the explanations provided at the request of ANRE regarding the fulfilment of the requirements set out in this Regulation;
- c) the existence of a technical and organisational framework, including the provision of qualified personnel, to enable the applicant to fulfil the conditions associated with the authorisation/licence;
- d) to provide the financial resources necessary for the activity for which authorisation/licence has been requested, assessed on the basis of the availability proven with the documents provided for in this Regulation;
- e) energy efficiency of energy capacities for which authorisation/licence was requested, in relation to the sizes and benchmarks established by ANRE;
- f) Other elements of the provisions of Art. 9 par. (7) of Law No123/2012, as amended and

supplemented.

(2) In the case of application for an authorisation to set up, in addition to the particulars referred to in paragraph 1, the results of the checks on:

- a) the fulfilment of the legal conditions for the location of energy capacities for which the authorisation to set up was requested in relation to the objectives located in the same area, constructed or under authorisation by ANRE;
- b) fulfilment of legal requirements for power grid connection of energy capacities.

(3) In duly justified cases, ANRE shall analyse the completeness of the documentation referred to in paragraph (1) letter b), in relation to documents which are similar in content or effects to those provided for in this Regulation.

Art. 30

(1) After completing the analysis process of the documentation submitted by the applicant, the specialised section of ANRE shall draw up a report proposing to the ANRE Regulatory Committee the way to resolve the applicant's request.

(2) The Establishment Authorisation/Licence issued by ANRE shall be valid together with the general and specific conditions, which are an integral part of it and which contain, in particular:

- a) data on the holder of the authorisation/licence;
- b) the object of the authorisation/licence;
- c) the period of validity of the authorisation/licence;
- d) the rights and obligations of the authorisation/licence holder;
- e) conditions for transfer, modification, suspension, withdrawal of authorisation/licence;
- f) the conditions under which ANRE is entitled to impose sanctions on the holder of authorisation/licence.

(3) The general conditions associated with the establishment/licence authorisation are approved by order of the President of ANRE.

(4) The specific conditions associated with the establishment/licence authorisation shall be approved for each authorisation/licence holder by decision of the ANRE Chairperson.

Art. 31

The Regulatory Committee within ANRE shall decide on the basis of the report drawn up by the specialised department of ANRE, in public meeting, granting, modifying, suspending, withdrawing or refusing authorisation/licence.

Art. 32

(1) In case of authorisation/licence, ANRE shall communicate to its holder:

- a) decision of the president of ANRE on granting authorisation/licence;
- b) authorisation/licence form, drawn up in accordance with the models set out in Annex No 5;
- c) the specific conditions associated with the authorisation/licence, which form an integral part of it.

(2) In case of refusal to grant authorisation/licence, ANRE shall communicate to its applicant the decision on refusal to grant the authorisation/licence, which shall state the reasons for its failure to grant it.

Chapter IV: The conditions under which authorisations or licences granted are amended

Art. 33

At the request of the holders, ANRE shall take a decision, in accordance with the legal provisions in force, on the modification of the authorisations/licenses granted, in the following situations:

- a) in case of changes in the status of the authorisation/licence holder due to the change of legal form, change of name or changes in the registered office or other premises subject to authorisation/licence;
- b) in the case of changes in the status of the holder of the authorisation/licence resulting from the merger, division or conversion of the holder;
- c) when it is necessary to update the specific conditions associated with the authorisation/licence: in case of inclusion in the licence of new energy capacities or the exclusion of energy capacities from those provided for in the licence, including in the case of inclusion/exclusion of electrical energy storage facilities, in the case of changes in technical characteristics leading to changes in installed power or territorial demarcation of the geographical area in which the activity may be carried out, in case of inclusion in the licence of complementary rights specific to other types of licences or in other cases, except those referred to in points a) and (b);
- d) where the holder requests the extension of the period of validity of an authorisation to set up granted, where the time limit for the completion of the authorised works exceeds the date on which the authorisation expires;
- e) where the holder requests the extension of the period of validity of a licence granted, where the term of validity is shorter than the maximum duration permitted in accordance with Article 13.

Art. 34

(1) Modification of authorisations/licenses is made on the initiative of ANRE:

- a) if there are some changes in circumstances since the date of granting/modifying authorisations and/or licences, such as amendments to the incidental legislative and regulatory framework, with due regard for equal treatment of holders and in relation to the nature of the situation leading to the change;
- b) where events occur which substantially affect authorised/licensed activities or lead to the impossibility of the authorised/licensed activity;
- c) where the holder does not request to update the specific conditions associated with the authorisation/licence in accordance with the provisions of Article 33 (c).

(2) In the case referred to in paragraph 1, ANRE shall not charge the modification fee for authorisations/licenses.

(3) In the situations referred to in Article 33 letters a)-c), the license/authorisation holder shall register with ANRE an application for modification of the license/authorisation within the notification periods stipulated, as appropriate, under the conditions associated with it or, if no such deadlines are provided, within no more than 10 calendar days from the occurrence of the situation requiring the modification of the license/authorisation.

Art. 35

(1) The situations referred to in Article 33 letter a) shall be notified to ANRE by the holders of authorisations/licenses, within 30 days of their occurrence.

(2) **The holder of the authorisation/licence shall notify the competent authority at least 120 days before the date on which the merger, division, processing and any sale or transfer of assets or other operations are to be carried out:**

- a) tangible assets intended for activities authorised by authorisation/licence will be transmitted or will belong to another person/person;

b) the amount of existing share capital shall be reduced, in a tranche or overall, by at least 5 %. The existing share capital of the authorisation/licence holder means the initial share capital, at the date of issuing the authorisation/licence, or the existing share capital at the date of the last change, obtained by increases or decreases in the initial share capital, made after issuing the authorisation/licence, in compliance with the terms of the authorisation/licence.

(3) Licence holders having as their object the execution of electricity distribution or transmission services shall notify the competent authority at least 6 months in advance of their intention to carry out the operation referred to in paragraph 2(b).

(4) In the case referred to in paragraph 3, ANRE shall be notified by a new notification at least 120 days before the actual date on which the operation leading to the reduction of the existing share capital takes place, according to the ruling of the management bodies of license holders.

Art. 36

Pending an amendment of the authorisation/licence following a change of name, change of legal form or change of registered office or other premises subject to authorisation/licence, the holder of the authorisation/licence shall be entitled to carry out the activity for which he has been authorised/licensed on the basis of the existing authorisation/licence.

Art. 37

The application for modification of authorisations/licences shall be accompanied by:

- a) in the situations referred to in Art. 33 letters a) and b), the documents proving, under the terms of the law, the modification of the status of the holder of authorisation/licence;
- b) in the situations referred to in Article 33 (c), those documents referred to in this Regulation which are subject to that amendment, relating to the new energy capacities and their technical characteristics, in the event of the entry into service of new energy capacities, or the documents relating to the removal of existing capacities, in the event of their exclusion from the licence, etc.

Art. 38

In the situations referred to in Article 33, ANRE shall examine the amendment application and the documentation attached to it and, if the request is justified, shall, as appropriate:

- a) withdrawal of initial authorisations/licenses and/or granting of new authorisations/licenses;
- b) modification of the authorisations/licences granted.

Art. 39

(1) The holder shall request the ANRE to amend the authorisation/licence to extend its validity at least 60 days before the expiry date; the application shall be accompanied by the documents referred to in paragraphs 4 or 5, as appropriate.

(2) If the documentation extending the validity of the license for the electricity supply activity is not complete at least 20 days before the expiry date of the license, ANRE shall have the right to start the process of taking over the final customers of the respective license holder by suppliers of last resort, according to its own regulations.

(3) ANRE shall examine the application for amendment referred to in paragraph 1 and shall provide, where the documentation annexed thereto is complete in accordance with paragraphs 4 or 5, as appropriate:

- a) the granting of new authorisations/licenses;
- b) modification of the authorisations/licences granted.

(4) At the request for the extension of the period of validity of an authorisation in accordance with Article 33 (d), the holder shall attach:

- a) a note of the need to extend the period of validity of the authorisation;
- b) the documents referred to in Article 19 (1) (i) and j), within the term of validity, or documents relating to the extension of their term of validity, as appropriate;
- c) evidence of obtaining the financing of energy capacity, where the applicant has submitted documents drawn up in the pre-contractual phase when granting the authorisation.

(5) At the request to extend the validity of a licence pursuant to Article 33 (e), the holder of the licence shall attach:

- a) the certifying certificate, in original or copy, regarding the registration and situation of the license holder, issued by the trade registry office no later than 30 days before the date of submission to ANRE;
- b) a statement of modification or maintenance of the elements underlying the granting of the licence the validity of which is to be terminated; in case of modification, the elements that have changed shall be specified;
- c) addresses of the premises through which the holder carries out his business or can be contacted, updated, if changes have occurred; in the case of applicants designated as suppliers of last resort, they must prove that the location conditions laid down by law with regard to information points are fulfilled;
- d) Proof that it satisfies the conditions laid down, as appropriate, in Article 22(3), Article 24(3), Article 25(3) or Article 251⁽³⁾ concerning financial resources, in the case of an application for the extension of the validity of a licence of the category referred to in Article 10(1)(f), g), h) or i);
- e) information note on contracts for the supply of electricity to ongoing final customers whose term of validity exceeds the validity of the licence.
- f) the releases, in the original or in a certified copy, referred to in Article 18 (1) (c) or, as the case may be, Art.

Article 26 (2) (c).

Chapter V: Procedure for suspension and withdrawal of authorisations and licences

Art. 40

(1) In case of failure by the holder of the authorisation to establish, respectively, the license, his legal obligations stipulated in the primary or secondary legislation, as well as in case of non-compliance with the conditions associated with the license/authorisation, established by ANRE ex officio or upon referral to third parties or upon notification by the holder, ANRE shall apply the measures provided for in par. (2) or (3), as appropriate.

(2) If the failure or failure to comply with obligations is not attributable to the holder of the authorisation/licence, ANRE shall, as appropriate:

- a) granting a compliance period of not more than 6 months to the respective authorisation/licence holder, if the situation can be rectified, subject to suspension of the authorisation/licence;
- b) withdrawal of authorisation/licence if the situation created is irreparable.

(3) If the failure or non-compliance is attributable to the authorisation/licence holder, ANRE shall, as appropriate:

- a) suspension of authorisation/licence for a specified period to remedy the situation created, if rectifiable; or
 - b) withdrawal of authorisation/licence if the situation created is irreparable.
- (4) Suspension and withdrawal of authorisation/licence shall be approved by decision of the president

of ANRE and shall take effect from the date set by ANRE.

(5) In case of termination of the reasons that led to the suspension of the authorisation/licence, ANRE shall issue a decision to terminate the suspension, which shall enter into force on the date set by ANRE.

Art. 41

(1) In addition to the situations provided under Art. 40, ANRE shall suspend the holder of the authorisation and/or license in the following situations:

- a) at the reasoned request submitted by the holder of the authorisation/licence and accepted by ANRE;
 - b) whether another public institution has suspended the validity of one of the documents which gave rise to the authorisation/licence (authorisation, agreement, opinion, permit or approval) in accordance with the provisions of this Regulation;
 - c) where the establishment of energy capacities or one or more of their components endangers or harms natural persons, property and/or the environment, as determined by a public authority/institution or a court of law;
 - d) during the verifications undertaken by ANRE on a challenge concerning the granting of authorisation/licence;
 - e) for repeated failure to fulfil payment obligations as a party responsible for balancing or repeatedly failing to pay the cogeneration contribution, according to the ANRE regulations, established by ANRE at the request of the administrator of the support scheme;
 - f) in case of repeated failure by electricity suppliers to pay the penalties for failure to fulfil the quarterly and/or annual obligations to purchase green certificates, according to the provisions of the law and regulations of ANRE, as noted by ANRE at the notification of the Environmental Fund Administration.
- (2) Failure to fulfil the obligations referred to in paragraph 1 (e) and (f) shall be deemed to be repeated where there are at least two outstanding invoices relating to certain, liquid and due claims.
- (3) If the energy capacity was set up in breach of the property and/or use rights of other natural/legal persons to immovable property, the suspension of the authorisation/licence shall be carried out only on the basis of a final court ruling establishing the violation of those rights.

Art. 42

(1) In addition to the situations referred to in Article 40, ANRE shall withdraw the authorisation and/or license to the holder in the following situations:

- a) upon reasoned request of the holder, after confirming the fulfilment of the obligations to ANRE;
- b) in the event of the failure, incapacity or bankruptcy of the holder;
- c) upon cessation of the concession or the location of the energy capacity exploited or on sale by the holder;
- d) in cases where the cancellation by the issuer or the expiry of the validity of one of the acts (authorisation, agreement, consent, permit or approval) which formed the basis for granting the authorisation/licence in accordance with the provisions of this Regulation is irreparable, leading to the impossibility of carrying out permit/licence activities or compliance with the conditions associated with them;
- e) the loss of the legal title relating to the possession of immovable property in or on which energy capacities are located or the loss of the legal title relating to the possession of energy capacities, which leads to the impossibility of carrying out the activity permitted by the licence, as determined by a final judgment;

- f) as a result of a challenge concerning the granting of authorisation/licence, which has been resolved favourably;
- g) in case of presentation of evidence (restriction or prohibition of activity, court decisions, etc.) issued by a public authority, which attests that the establishment/functioning of energy capacities or of one or more of their components endangers or seriously harms natural persons, property and/or the environment;
- h) in case of impossibility of remedying the situations referred to in Article 41 (1) lett. e) and f).

(2) The holder of the authorisation and/or license shall be obliged to notify ANRE of the situations referred to in paragraph (1) letters b)-e) within 8 days of their occurrence.

Chapter VI: Final and transitional provisions

Art. 43

- (1) The start-up authorisations as well as the licences that were granted by ANRE before the entry into force of this Regulation in order to allow the conduct of certain activities in the field of electricity shall remain valid until their expiry, with the possibility of their modification by ANRE under the conditions of this Regulation.
- (2) Decisions on granting/modifying/suspension/withdrawal of authorisations and licenses shall be published on the ANRE website and shall be communicated to the holder.

Art. 44

(1) In the case of transfer of ownership/use of energy capacities that are provided under the specific conditions associated with a licence, the economic operator taking over those energy capacities may carry out their commercial exploitation as a result of:

- a) the modification of the license by ANRE, if it holds a licence of the same type as the holder from whom it took over the energy capacities, consisting of the inclusion of energy capacities taken over under the specific conditions associated with this licence;
- b) the grant by ANRE of a provisional licence, if it does not hold a licence of the same type as the holder from whom it took over the energy capacities;
- c) the grant by ANRE of a definitive licence, if it does not hold a licence of the same type as the holder from whom it took over the energy capacities.

(E) In case of transfer of activities of realisation/refurbishment of energy capacities that are provided under the specific conditions associated with a creation authorisation, the economic operator taking over these activities may carry out these activities as a result of the granting by ANRE of a provisional authorisation or a definitive establishment authorisation.

(2) In the case of licences having as their object the execution of distribution or transmission services of electricity, the holder of the licence carrying out the operation of energy transfers leading to the reduction of the value of the existing share capital shall comply with the provisions of Article 35(3) and (4).

(3) The application for granting an authorisation to establish/provisional licences shall be submitted to ANRE at least 120 days before the date on which the transfer of energy capacity becomes effective, together with the documents proving the transfer operation, the ascertaining certificate issued by the trade register office concerning the person taking over energy capacities, his personnel list and the declaration provided for in Article 18(1)(c).

(4) The application referred to in paragraph 3 shall be signed by the legal representative of the holder

of the authorisation/licence transferring energy capacity and by the legal representative of the person taking over them.

(5) Until the transfer of energy capacities becomes effective, ANRE shall issue, by decision of the president of ANRE, a provisional authorisation to establish/licence to the person taking over the respective energy capacities.

(6) The establishment authorisation/provisional licence shall be valid until the date on which the holder obtains the definitive establishment/licence authorisation issued under this Regulation, but no more than 6 months from the date of its issue.

Art. 45

(1) If following the control action undertaken by ANRE it is established that the holder of the authorisation/licence did not comply with the law or one or more of the conditions of authorisation/licence, ANRE shall apply sanctions under the law.

(2) The application and/or payment of any contravention fine shall not in any way limit the right of ANRE to suspend/withdraw authorisation under the terms of this Regulation.

(3) If, as a result of a control activity undertaken by ANRE, the completion of the works for the realisation/rehabilitation of the energy capacity is established, by putting them into service, without authorisation to set up, this authorisation shall not be issued.

Art. 46

ANRE decisions regarding the granting, refusal of granting, modification, suspension or withdrawal of authorisation/licence may be appealed in administrative proceedings to the Bucharest Court of Appeal under the conditions of Art. 5 par. (7) of the Government Emergency Ordinance no. 33/2007 on the organisation and functioning of the National Energy Regulatory Authority, approved with amendments and additions by Law no. 160/2012 .

Art. 47

(1) ANRE shall make available, upon request, prior to the granting/modification of the authorisation/licence, any of the documents developed by ANRE, in order to resolve an application regarding the granting, refusal, modification, suspension or withdrawal of an authorisation/licence.

(2) Documents containing:

- a) data constituting a state secret;
- b) data of a service secret nature;
- c) commercially sensitive data, according to the provisions of contracts concluded by economic operators, the confidentiality of which has been notified to ANRE.

Art. 48

(1) ANRE shall forward to the holder the original copy of the authorisation/licence granted.

(2) After approval of the request for granting/modifying/suspension/withdrawal of establishment/license authorisations, the removal of the original documents by their holders shall be made by:

- a) the legal representative;
 - b) employees of the holder, who shall be authorised to do so, signed by the holder's legal representative;
 - c) any other person who has a notary or attorney's power of attorney under the terms of the law.
- (3) In case of loss/destruction of documents related to the establishment/licence authorisation, ANRE shall, upon request, submit a duplicate to the holder. The holder's request shall be accompanied by proof of publication of the loss/destruction documents related to the authorisation/licence in the

Art. 49

- (1) ANRE charges for granting/modifying authorisations/licenses, according to the law.
- (2) Throughout the period of validity of a licence, which also includes the duration of the suspension of the license if suspension occurs, the license holder shall pay an annual contribution to the ANRE account.
- (3) The level of tariffs for granting/modifying authorisations/licenses, including analysis tariffs, tariffs for issuing a duplicate, as well as of the annual contribution shall be established by order of the president of ANRE.
- (4) In the case of electricity generators and, where applicable, heat produced from cogeneration with installed electrical power less than or equal to 1 MW, the licensing fee and the annual contribution provided for in paragraph 2 shall be equal to 20 % of the minimum licensing fee, i.e. the minimum contribution established by order of the President of ANRE.
- (5) In order to grant the provisional establishment/licence authorisation, the economic operator who takes over the establishment/licence authorisation shall pay in advance to ANRE the tariff for granting the provisional authorisation/licence, amounting to 25 % of the minimum tariff for granting an authorisation for establishment/licenses established by order of the ANRE president.
- (6) In order to amend the provisional establishment/licence authorisation, the holder shall pay in advance to ANRE a tariff amending the provisional authorisation/licence amounting to 25 % of the tariff for amending an authorisation to set up/licenses established by order of the ANRE President.
- (7) In the case of modification of establishment authorisations or licences covering any of the cases of amendment referred to in Article 33 (a), the licence holder shall pay a modification fee of 25 % from the modification tariff set by order of the ANRE President.
- (8) [The text of Article 49(8) of Chapter VI was repealed on 10-ian-2019 by Article I, point 12 of Order 211/2018]

Art. 50

Natural persons licensed for the commercial exploitation of their power generation or heat generation capacities, granted under the terms of this Regulation, shall owe ANRE an annual contribution of 10 % of the minimum annual contribution established by the order of the ANRE president.

Art. 51

ANRE shall publish on the institution's website updated information on authorisations and licences granted/rejected, suspended and/or withdrawn.

Art. 52

Annexes 1 to 5 shall form an integral part of this Regulation.

Annex 1:

1. Model No. 1.1.

Mr. President,

I , the undersigned [forename and name],as director
 general/single administrator] to the economic operator registered at the office of the commercial
 register under
 Name [name of national company/commercial company/autonomous company]
 Having the legal form of [C.N./S.A./S.R.L.], registered in the register of trade with
 No. J/..., having the unique registration code..... , with registered office.....
 Commune/city/municipality, street, no., county, postal code], phone number..... , fax no.
 And...the account [specification/account number/ROL], opened with the bank...
 [name of commercial bank], branch..... [name/localisation of the branch where it is]
 opened the account of the national company/commercial company/autonomous company], I
 request
 [granting an authorisation to set up/amend the establishment authorisation] for

(1) Realisation of the new energy capacity["designation of energy capacity for
 which construction-mount work is required for authorisation', its location],

(2) Refurbishment of energy capacity["designation of energy capacity for
 which refurbishment work is required for authorisation', its location].

I would like to inform you that for the purpose of communicating with the National Energy
 Regulatory Authority, I can be..... contacted by telephone/fax at
 no.

The application shall be accompanied by specific documents, the list of which is annexed to this.

Knowing the provisions of the Criminal Code on forgery in statements, I certify on my own responsibility the veracity and authenticity of all documents submitted.

Signature

(1)(2) Only the line following one of these figures shall be completed, as the case may be.

2. Model No. 1.2

Mr. President,

I....., the undersigned [forename and name],.....as director general/Single Administrator] with the economic operator registered at the office of the trade register with

Name..... [name of national company/commercial company/autonomous company],

Having the legal form of..... [C.N./S.A./S.R.L.], registered in the trade register with no.

J/..., having the unique registration code, withregistered office

Commune/city/municipality, street no., county, postal code], phone number, fax no.

And..... the account.....[specification/account number/ROL], opened with the bank

[name of commercial bank], branch [name/localisation of the branch where it is]

opened the account of the national company/commercial company/autonomous company], I request.....

[granting of a licence/licence change] for the [type of licence] as provided for in Article 10 of Regulation (EC) No/.

(1) of the Regulation for licensing and authorisations in the electricity sector, approved by the Order of the President of the National Energy Regulatory Authority no. 12/2015].

I would like to inform you that for the purpose of communicating with the National Energy Regulatory Authority, I can be contacted by phone/fax at phone/fax.*

The application shall be accompanied by specific documents, the list of which is annexed to this.

Knowing the provisions of the Criminal Code on forgery in statements, I certify on my own responsibility the veracity and authenticity of all documents submitted.

Signature of the legal representative

* Both the telephone of the legal entity applicant and the legal representative shall be switched.

3. Model No. 1.3

Mr. President,

I, the undersigned, [forename and name], request

[granting a licence/licence modification] for the commercial exploitation of electricity or heat and electricity generation capacities from cogeneration power plants and energy storage facilities added to generation capacity/for the commercial operation of energy storage facilities not added to an existing production capacity, being registered/individual enterprise/family enterprise

I represent being registered at the Trade Register Office under J//with unique code Registration, in accordance with the provisions of the law on organisation and conduct On the territory of Romania of economic activities by authorised natural persons, individual enterprises and family enterprises and having their domicile/rest⁽¹⁾ in [name of commune/city/municipality, street no., county, postal code].

I would like to inform you that for the purpose of communicating with the National Energy Regulatory Authority, I can be contacted by phone/ fax at phone/fax number.

⁽²⁾I note that the name of my/individual/family enterprise is open Account with [..... specification/account number/ROL], at the bank..... [name Commercial bank], branch.....[name/localisation of branch].

The application shall be accompanied by specific documents, the list of which is annexed to this.

Knowing the provisions of the Criminal Code on forgery in statements, I certify on my own responsibility the veracity and authenticity of all documents submitted.

Signature

⁽¹⁾ For individuals who are foreign nationals.

⁽²⁾ Fill in if necessary.

Annex 2:

1. MODEL No 2.1: Declaration OF THE RESPUNDER [of the applicant legal person]

I, the undersigned, as a controlling shareholder/associate applicant/Administrator/Member of the Board of Directors/Member of the Council of Supervision of the economic operator, registered at the Registry Office Trade in NoCUI

Knowing the provisions of Art. 326 of the Criminal Code regarding forgery in statements, I declare on my own responsibility the following:

— I had/did not have the status of shareholder/associate and/or administrator within economic operators holding authorisations/licenses granted by the National Authority of Energy regulation – I am not in the situation described in Art. 9 par. (3) of the Law on Electricity and Gas No. 123/2012, as amended and supplemented.

The holders of authorisations/licenses shall be specified if they have been a shareholder/associate/administrator/member of the Board of Directors/Member of the Supervisory Board.

2. MODEL No 2.2: Declaration OF THE RESPUNDER [of the applicant natural person]

The undersigned....., identified with C.I. No., CNP, domiciled in

....., knowing the provisions of Art. 326 of the Criminal Code regarding forgery in statements, I declare

on its own responsibility the following:

- I had/did not have the status of shareholder/associate and/or administrator within economic operators holding authorisations/licenses granted by the National Energy Regulatory Authority*),
- I am not in the situation described in Art. 9 par. (3) of the Law on Electricity and Gas No.123/2012, as amended and supplemented.

*) The holders of authorisations/licenses shall be specified, if he was a shareholder/associate and/or administrator in them.

Annex 3:

1. MODEL No 3.1: Record of land/constructions occupied temporarily or definitively through the establishment of energy capacity and acts relating to the rights in these Land/constructions(name)

Composition capacity energy	The building (land and/or construction) on which the energy capacity is located The Identifier, address/number cadastral	Area of land (sq.)	The legal act by which rights of owner/onar concessions/user on land have been acquired, and/or construction	No./Data Extras Land Book

2. MODEL No 3.2: PROTECTION AND SAFETY DISTANCES

Composition of energy capacity	Objective	Distances	
		JM)	
		Relative distance according to project	Norm distance

Annex 4: TEHNICO-ECONOMIC data on energy capacities for which authorisation to set up is requested

No. crt.	Name indicators	UM...	Group 1		Central total
1	General data				
	Name project/central:				
	Power electric	MWe			
	Installed thermal input	MWT			
	Lifespan	years			
	PIF year				
	Duration of realisation of the investment – to be completed only in case of application for the authorisation to set up	years			
	The average accounting depreciation period of	years			
2	Total amount of investment (excluding VAT)	lions			
	Equipment	lions			
	Construction and mounting	lions			
3	Indicators calculated in				

	framework of analysis cost-benefit from the feasibility study on the basis of which				
	RIR – rate the internal of profitability	%	—	—	
	Van – Value net current	lions	—	—	
	Dri – duration of recovery of investment	years	—	—	
4	Presentation of constructive types and characteristics technical Principal ¹⁾ , components of energy production capacities as well as electrical installations ²⁾ of plant				

^{x)} Depending on the situation and characteristics of the energy capacities for which the establishment/licence authorisation is requested, the National Energy Regulatory Authority may request in addition to the data in the table, other data and information it considers relevant.

²⁾ Technical characteristics of electrical lines and stations and transformer substations used for the discharge into the SEN of the produced electrical power; in the case of electricity networks under the management of the licence applicant, to ensure access to other users' public-interest electricity networks, shall be disclosed: the technical characteristics of power lines and stations, transformer stations used for this purpose; B) information in the national stereographic coordinate system 1970, according to the scheme published on the website of the National Energy Regulatory Authority until 31 December 2019.

*) ATTENTION! According to Article IV of the Order no. 181/2019, lett. b) of note ²⁾ enter into force on 1 January 2020.

Annex 5:

1. MODEL No. 5.1

Framework content of the authorisation form

National Regulatory Authority in the Field of Energy Nrdin

.....

ESTABLISHMENT AUTHORISATION

To achieve new energy capacity/capacity refurbishment energy]

..... [name of energy capacity], having maximum electrical power
Debited by MW, located on/in the address/full description of
the location, for the purpose or energy capacity of the authorisation], granted
..... [name of economic operator], with its registered office in
[full address of the economic operator's registered office], registered in the trade register
With no. J// , on the basis of the application registered with the National Regulatory
Authority in
Energy domain with no [registration number] of [registration date]
and the documentation presented.

This authorisation is valid under the specific and general conditions attached to it, which form an
integral part of the authorisation.

The president,

Date of issue

Forging this document is punishable according to the law.

2. MODEL No. 5.2

Framework content of the licence form

Nodin.. ..

National Energy Regulatory Authority

License for[licence object]

..... Granted to the ^{holder}, with its registered office
SociafVdomiciliuPreside³ⁱⁿ [fulladdress of registered office1)/
Domicile<sup>2)/residence³⁾1]registered in the commercial register with no. J/.../..., on the basis of the
application registered with the National Energy Regulatory Authority no.....</sup>

[registration number] from [date of registration] and documentation submitted.

This licence shall be valid under the specific and general conditions attached to it, which form an integral part of the licence.

The president,

Date of issue

For national companies, companies or autonomous companies.

²⁾ For individuals who are Romanian citizens.

³⁾ For individuals who are foreign nationals.

Forging this document is punishable according to the law.

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