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Editor's note

Dear readers,

Welcome to the new-look digital Energy Newsflash of Rokas Law Firm. The current issue spots the light on the energy regulatory framework and regime updates in several SEE countries.

We examine the amendments of the laws promoting RES sector and harmonizing domestic laws with the EU Energy Acquis in Serbia and Albania, measures addressing the increased energy costs in Romania, and various electricity market measures and measures addressing consumption of energy in Bulgaria.

As energy is one of the crucial and rapidly changing industry sectors both worldwide and in SEE, our Energy & Environment Law Team is always at the forefront of the market developments and strives for excellence in everything we do.

I hope you enjoy the issue!

Mira Todorovic Symeonides
Partner
Head of the Energy Team
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Serbia: Draft Law on Amendments to the Law on the Use of RES

The Ministry of Mining and Energy of the Republic of Serbia (hereinafter: the Ministry) proposed a draft amendment to the Law on the Use of Renewable Energy Sources (Official Gazette of RS No. 40/202) (hereinafter: the RES Law), and on 21 January 2023 launched a public consultation which lasted until 9 February 2023. The amendment of the law regarding RES is one of the most discussed topics regarding Serbian legislation, both during 2022 and at the beginning of 2023.

The reasons for the amendments began to appear immediately after the adoption of the RES Law in 2021, due to the fact that the Electricity Transmission Grid of Serbia faced a sudden increase in the number of requests for the connection of new solar and wind power plants with a total capacity of about 14,000 MWs, which is significantly more than the current total installed capacity of all power plants, which is approximately 8,000 MWs. Temporarily the solution was found in postponing the procedure of issuing connection offers in order to maintain the safety of the operation of the electricity transmission system. Still the issue of the system safety appears as one of the many important goals pursued through the aforementioned amendments.



The need to strengthen energy security, the necessity for greater stabilization of projects related to the operation of RES power plants, the need to attract new investments in the field of RES and the fact that some provisions of the RES Law have not been implemented even two years after its adoption, are some of the reasons that justify changes to the law.

Some of the main amendments proposed in the Draft are:

a) Regulating the issue of balancing responsibility for RES electricity producers that are in the incentive system;

- Namely, when it comes to the obligation of market participants to balance production, consumption and contracted purchase and sale of electricity (the so-called balancing responsibility), Art. 10 of the current RES Law allows RES producers, regardless of whether they are in the incentive system, to transfer the balance responsibility to the guaranteed supplier, that is, JP EPS, which also represents a risk for the business of JP EPS.

The Draft proposes that the guaranteed supplier is no longer obliged to bear the balance responsibility for all power plants, but only for RES producers that are in the feed in premium (FiP) system, with the right to transfer the balance responsibility to another party responsible for the balance in accordance with the Law on Energy and the rules on the operation of the electricity market. Also, the guaranteed supplier will be obliged to undertake the balance responsibility for those producers who are in the feed-in tariff (FiT) system, until the end of the respective incentive period.

In accordance with the upcoming amendments, RES electricity producers in the FiP system will have the following obligations:

- i) To diligently plan their electricity production. The criteria for determining the negligent planning and the consequences of negligent behavior will be regulated by the agreement on the assumption of balance responsibility to be concluded between the guaranteed supplier and the respective RES producer.
- ii) To pay the guaranteed supplier a remuneration for the service of providing the balancing responsibility in a fixed percentage of the reference price it offered at the auction for each produced MWh.
- iii) To pay the guaranteed supplier, at the price achieved on the DAM, the positive difference between the sold electricity reported to the guaranteed supplier and the produced electricity in MWh.

b) Harmonization of Art. 11 of the RES Law with EU regulation;

- Current Art. 11 of the Law prescribes the right of priority access for all RES producers, while the announced amendments aim to align with European regulations in such a way that the right of priority access is limited only to small plants with capacity up to 400 kW, and from 1 January 2026 only up to or equal to 200 kW. Namely, the operators of the transmission, distribution, or closed distribution system are obliged to take over the electricity produced from RES facilities whose approved production capacity is within the above limits.

c) The issue of a large number of RES connection and their impact on the electricity transmission system;

- With the new amendments , RES producers are obliged to provide all necessary capacities for the provision of auxiliary services to the transmission system operator (batteries and other storage systems, i.e. controllable energy sources), if the transmission system operator assesses that the system is threatened due to the massive number of connections; At the same time, the amendments to the Law stipulate that the operator of the transmission system will issue an act on the assessment of the resource adequacy of the production system every year, which will assess whether the power system is threatened by the new connection of RES producers.

d) Determination of the maximum offered price for electricity;

- Finally, for the purposes of the auction where market participants will be able to acquire the right to incentive measures (FiPs and FiTs), the maximum offered price will after the adoption of the amendments be determined by the Ministry instead by the Energy Agency. The goal of the change is to centralize the auction system around one authority.

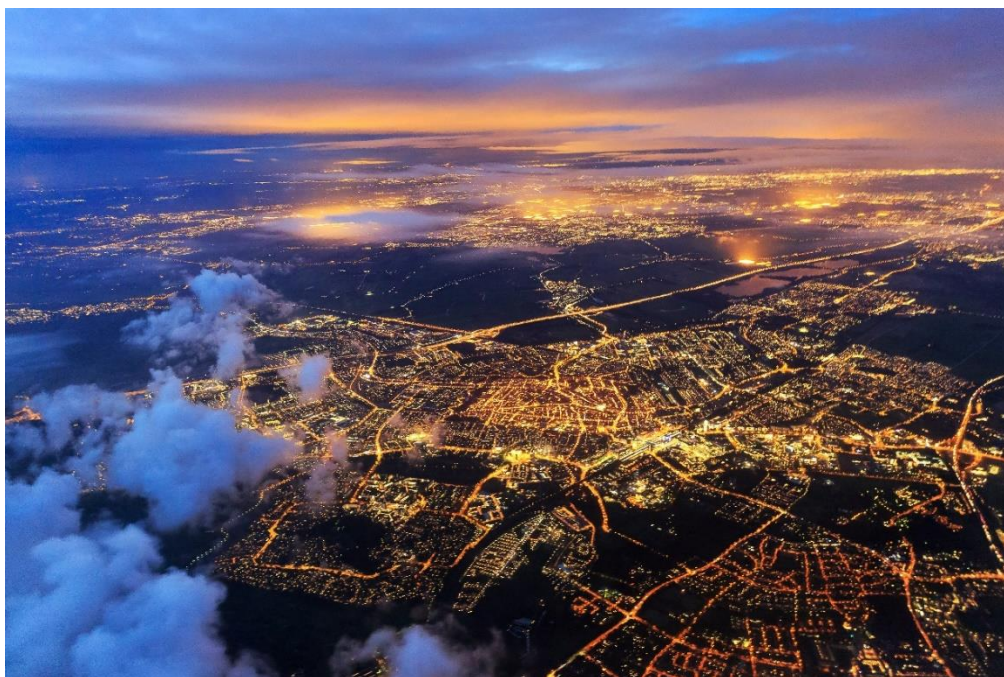
by Monja Novakovic,
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& Suzana Pavlovic, Associate
ROKAS (Serbia)



Romania: Amendments to the temporary measures addressing the increase energy prices

On 13 December 2022, the Romanian Parliament adopted Law no.357 on the approval of Government Emergency Ordinance no. 119/2022 amending and supplementing Government Emergency Ordinance no. 27/2022 on measures applicable to end customers in the electricity and natural gas market for the period from 1 April 2022 to 31 March 2023 and amending and supplementing certain regulatory acts in the field of energy.

Initially, the Government Emergency Ordinance 27/2022 capped the revenues of the electricity producers at which the electricity is sold to the centralized purchasing mechanism run by the Operator of the electricity and natural gas market (OPCOM) to 450 lei/MWh, during 1 January 2023 to 31 March 2023. Thus, OPCOM sells the electricity purchased at this price at the same price to suppliers, distribution companies and to the transmission system operator. In case of violation of the centralized purchasing mechanism, penalties from 1 to 5% of turnover will be applied.



The purpose of adopting this law is to confirm, extend and supplement the measures introduced by the Government Emergency Ordinance thus creating an economic and social balance by capping the market revenues of electricity producers in compliance with the European Regulation (EU) 2022/1854, adopted on 06.10.2022, “Member States may maintain or introduce measures that further limit the market revenues of electricity producers”.

The law confirms the measures imposed on the producers and extend their duration until 31 March 2025. Further it imposes new measures to the electricity suppliers when supplying to certain categories of electricity consumers i.e. certain households as final electricity customers for which the final invoiced electricity prices for the period 01 January 2023 - 31 March 2025 will be capped as follows:

I. maximum 0.68 lei/kWh (VAT included) for monthly consumption by the following categories of customers:

- a) Household customers whose monthly consumption is between 0 and 100 kWh inclusive.
- b) Household customers whose place of consumption is inhabited by persons using electrically powered medical devices, appliances, or equipment necessary for medical treatment.
- c) Household customers with at least 3 dependent children up to the age of 18. The age limit is extended to 26 years if the adult child is in education.
- d) Single-parent households with at least one dependent child up to the age of 18. The age limit is extended to 26 years if the adult child is in education.

II. maximum 0,80 lei/kWh (VAT included) for monthly consumption during the period 1 January 2023 - 31 March 2025 by household customers whose monthly consumption at the place of consumption is between 100,01 and 255 kWh. Electricity consumption between 255 and 300 kWh/month is billed at the lower of the contract price or the final capped price of 1.3 lei/kWh, including VAT.

Subject to the fulfilment of additional conditions by household customers in category (b), for them the capping can be made based on confirmation from the specialist and an application submitted to the supplier and for customers in categories (c) and (d) the capping can be made based on the completion and submission of an application and an affidavit.

The present law entered into force on 01.01.2023 and will take effect until 31.03.2025, consumers will benefit from the short-term effects of the law, however, as the capping scheme does not only concern domestic consumers but also non-domestic consumers, energy market specialists are of the opinion that as it is regulated, the scheme benefits consumers and creates a difficult situation for suppliers, their theory to be confirmed by assessing the medium- and long-term effects on the market.

by Alina Negrilă | Associate
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Albania: Draft Law for promoting the use of energy from RES

On 20 February 2023 the Commission for Legal Affairs, Public Administration and Human Rights of the Albanian Parliament approved the draft law on promoting the use of energy from renewable sources proposed by the Council of Ministers. The adoption of the law by the Parliament is pending.

This Draft, when adopted, will replace the currently applicable law No. 7/2017 on promoting the use of energy from renewable sources. The scope of the new law is to improve incentive policies to increase the use of renewable energy sources (RES) in Albania and to protect them, as provided for in directive 2018/2001 (RED II).

The Draft law should harmonize the Albanian legislation with the EU Energy Acquis, create space for a more flexible treatment of self-producers from RES, impact the reduction of import of fossil fuels and the emission of greenhouse gases, and encourage development of RES and their regional integration. It aims to achieve the new target of renewable resources in Albania, which in 2030 is 54% of all consumption to be from RES.

Another novelty is the recognition of the right of small producers to freely market the surplus of produced energy and provide for the mechanism to guarantee the implementation of this right. Further it regulates the creation of the Renewable Energy Operator, which will trade on the energy exchange with all the RES energy it will operate.

The Chapter III of the Draft regulates the promotion of electricity production from RES including the support measures for electricity produced from RES, responsibilities related to balancing and flexibility, support schemes, steps related to the competitive process, support measures for pilot projects.

by Blerta Topore | Associate
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Bulgaria: Amendments of the Energy Law

On 12 January 2023 the Bulgarian Parliament adopted certain amendments of the Bulgarian Energy law as of 9 December 2003, as amended, with the aim to reform the sector. The main three amendments concern: monitoring of their electricity consumption by households and businesses; the activities of the Electricity System Operator (EAD), and the third one is introducing a new section in a connection with the storage of electrical power.

The first introduces the possibility that the consumers and producers to are provided at the metering points with complete picture of the actual real-time consumption.

The second, addresses the issue of predictability and transparency of the official data the Electricity System Operator provides to the trade participants from the financial settlement showing the amounts due for the relevant balancing period.

The third regulates the storage of the electrical energy, connection of the storage plant to the grid, and its operation. The storage facilities may be built next to a new or an existing electricity production plant or may be constructed as a stand-alone facility. The implementation of these provisions requires installation of a wide range of technologies.

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