

# GLOBAL RENEWABLE ENERGY Guide

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2015



**GLOBAL**  
**RENEWABLE**  
**ENERGY**  
Guide

**2015**

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## FOREWORD

ÇAKMAK PUBLISHING is pleased to publish this 2015 edition of the *Global Renewable Energy Guide*, which has been published annually since 2010.

*Global Renewable Energy Guide* is designed to provide an overview of applicable legislation and available incentives to renewable energy companies worldwide. It will aid investors, lenders and government agencies in understanding and comparing relevant provisions from different jurisdictions.

The publication maintains a Q&A format with a common questionnaire set by the editors and answered by leading practitioners from 32 jurisdictions around the world.

The following are notable observations from this 2015 edition of the *Guide* regarding the regulatory regime and available incentives for renewable energies in the 32 jurisdictions explored:

- Most of the countries, 20 out of 32, have an independent regulatory authority to supervise and regulate the electricity sector, including renewable energies, while the remaining 12 countries opt for regulation of the electricity sector by a Ministry.
- Most of the countries, 25 out of 32, provide for tax advantages for the generation of electricity from certain or all types of renewable energy sources.
- Purchase guarantees (feed-in tariffs) or similar support mechanisms are available in most of the countries, 24 out of 32.
- The ratio of ensuring a minimum price for the electricity generated by renewable energy companies is high as well (22 countries out of 32 countries).
- In 19 out of the 32 countries, priority for connection to and/or usage of the transmission and/or distribution system is provided for renewable energy companies.
- 9 out of the 32 countries provide for additional incentives for the domestic manufacturing of equipment and materials.

We gratefully acknowledge the contributions of all the authors of this publication, who have been selected for their recognized expertise in the field of renewable energy law, and thank them for making this Guide a reality.

Av. Mesut Çakmak  
Av. Dr. Çağdaş Evrim Ergün  
Editors  
Ankara, October 2015

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# ROMANIA



Irina Moinescu



Nisa Jecu

## TUCA ZBARCEA & ASOCIATII

### GENERAL

#### 1. What is the nature and importance of renewable energy in your country?

In accordance with the provisions of Directive 2009/28/EC on the promotion of the use of energy from renewable sources, Romania undertook towards the European Union (EU) the obligation to reach a certain percentage of electricity generated from renewable energy sources out of the final gross electricity consumption, namely 24% by 2020.

In view of accomplishing such national objective, Romania implemented a support scheme for the generation of renewable energy, namely the system of mandatory quotas for green certificates acquisition combined with green certificates trading.

The implementation of such support scheme triggered extensive investments in the renewable energy sector, as a result of which Romania has exceeded its annual intermediary targets of electricity generated from renewable energy sources and is expected to exceed also the 2020 target. Against such background, the support system has undergone several limitations as of the date when it was first implemented (1 November 2011) and new amendments requested by the European Commission (EC) have recently been enacted.

It should be noted that, as per such latest amendments, the Government will approve a mechanism for opening the green certificates support scheme to the electricity produced from renewable sources in other EU member states. Nevertheless, such mechanism will become applicable only after the execution by Romania of bilateral agreements with such other EU members states and based on the terms thereof.

Following the implementation of such mechanism, the electricity generated from renewable energy sources in another EU member state which is imported into Romania will benefit from the green certificates support scheme as if produced in Romania. Similarly, renewable electricity producers will be able to export to other EU member states the electricity generated in Romania, in which case they will no longer benefit from the Romanian green certificates support scheme, but from the support scheme applicable in the relevant member state.

#### 2. What is the definition and coverage of renewable energy under the relevant legislation?

Under Romanian law, renewable energy comprises the energy generated from the following sources: (i) wind; (ii) solar; (iii) aero thermal; (iv) geothermal; (v) hydrothermal and ocean energy; (vi) hydraulic energy; (vii) biomass; (viii) landfill gas; (ix) sewage treatment plant gas; and (x) biogas.

In terms of support granted for the generation of electricity from renewable energy sources, the green certificates system applies to hydro energy, if the capacity of the generation unit does not exceed 10MW, wind energy, solar and geothermal energy, biomass, bioliquid and biogas, as well as energy generated from landfill gas and sewage treatment plant gas.

Also, the Romanian law provides that the promotion system shall not apply to the following types of electricity: (i) electricity generated from fuel deriving from imported biomass and industrial/municipal waste, irrespective of the installed capacity of the power plant; (ii) electricity generated in pumped-storage stations from the water previously pumped to the higher elevation reservoir; (iii) electricity generated in power plants using both renewable and conventional sources in the same burning installation, if the energetic content of the conventional fuel exceeds 10% of the total energetic content; (iv) electricity used for the technological consumption of the plant; (v) electricity generated by photovoltaic projects which were located on lands which are qualified as agricultural lands on 31 December 2013; (vi) dispatchable generation units, which exceed the quantities notified through the hourly physical notifications submitted by the producers to the transmission and system operator; and (vii) electricity generated from renewable sources sold at negative prices.

## REGULATION

### 3. How is the renewable energy sector regulated? What are the principal laws and regulations?

#### *Overview of the governing legal framework*

As previously mentioned, in view of encouraging investments in the renewable energy sector, which are essential for fulfilling the targets undertaken by Romania towards the

EU, Romania implemented a system of mandatory quotas for green certificates acquisition combined with green certificates trading. As it will be further detailed herein below, such system entails an award to producers of electricity from renewable energy sources, accredited by the regulatory authority, of a certain number of green certificates for each generated MWh (depending on the type of technology used), while the suppliers (and in some limited cases, producers as well) have the obligation to purchase a number of green certificates corresponding to the quantity of electricity invoiced to final consumers and used for their own consumption purposes multiplied by a mandatory quota of green certificates acquisition determined by the regulatory authority.

The main piece of legislation regulating the support system is Law No. 220/2008 establishing the system for promoting the power produced from renewable sources of energy, as subsequently amended and supplemented (Renewable Energy Law).

The support system was notified to and approved by the EC in July 2011. However, during the authorization process, the Romanian authorities undertook to bring some amendments to the then existing legal framework with the purpose of aligning it with the clearance to be obtained from the EC. Hence, the support scheme became applicable starting 1 November 2011 after the amendment of the Renewable Energy Law through Government Emergency Ordinance No. 88/2011 and after the issuance by the National Energy Regulatory Authority (ANRE) of secondary legislation for the implementation thereof.

In 2013, the Renewable Energy Law was amended by means of Government Emergency Ordinance No. 57/2013 (GEO No. 57/2013), whereby severe limitations were introduced to the support scheme effective as

of 1 July 2013. Several other amendments have also been implemented further to the enactment of Law No. 23/2014 approving GEO No. 57/2013 (Law No. 23/2014).

Since the Renewable Energy Law has been successively amended after its initial clearance by the EC, a new review of the Renewable Energy Law thus amended was recently conducted. Within such process, following some specific requests from the EC, new amendments have been recently approved by the Romanian Parliament and the amending law entered into force on 6 June 2015.

Aside from the primary pieces of legislation already referred to above, for the implementation of the green certificates promotion system there were several secondary enactments issued since 2011 until present. The currently in force main secondary enactments are as follows:

- Government Decision No. 994/2013 approving the measures for reducing the number of green certificates in the circumstances provided in article 6 (2), letters a), c) and f) of Law No. 220/2008 establishing the system for promoting the power produced from renewable sources of energy (GD No. 994/2013);
- Government Decision No. 495/2014 establishing a State aid scheme in order to exempt certain categories of final consumers from the application of Law No. 220/2008 establishing the system for promoting the power produced from renewable sources of energy, as subsequently amended and supplemented;
- Government Decision No. 1110/2014 approving the 2015 annual mandatory quota of renewable energy benefiting from the green certificates support system;

- Regulation on the accreditation of producers of electricity from renewable energy sources for the application of the green certificates support system, approved by ANRE Order No. 48/2014, as subsequently amended and supplemented;
- Methodology establishing the annual mandatory quotas of renewable energy benefiting from the green certificates support system and the annual mandatory green certificates acquisition quotas, approved by ANRE Order No. 144/2014;
- Methodology on the monitoring of the green certificates system for the promotion of electricity generated from renewable energy sources, approved by ANRE Order No. 78/2015;
- Regulation on the organization and functioning of the green certificates market, approved by ANRE Order No. 60/2015;
- Regulation on the issuance of green certificates, approved by ANRE Order No. 4/2015.

It should be noted that producers of electricity and heat from cogeneration which use renewable energy sources have the obligation to choose one of the support schemes, i.e., either the system of mandatory quotas combined with green certificates trading, or the bonus support scheme for high efficiency cogeneration.

Such latter scheme has been implemented in Romania starting with 2007 by Government Decision No. 219/2007. After having been authorized by the European Commission, ANRE has adopted, during the course of 2010 and 2011, extensive secondary legislation for the implementation thereof, the scheme being applied as of 1 April 2011.



Under this scheme, qualified producers are granted bonuses on a monthly basis for each MWh of electricity produced from high efficiency cogeneration and delivered into the grid; the funds for such bonuses derive from the monthly contributions (the value of which is established by ANRE) from all electricity consumers (through their suppliers). This support scheme is applicable for the period 2011-2023, provided that no producer can benefit from it for more than 11 consecutive years. Should the aggregate capacity of combined heat and power units benefiting from the scheme reach 4,000 MW, then only high efficiency cogeneration units replacing the existing cogeneration plants shall be eligible for the support scheme.

### ***Overview of the green certificates promotion system***

#### *Application period*

The green certificates promotion system shall apply for a period of (i) 15 years for electricity generated by new units, (ii) 10 years for electricity generated by refurbished hydropower plants, with an installed capacity of no more than 10 MW, (iii) 7 years for wind power generated by units previously used on the territory of other states, if such units are used in the isolated energy systems or have been commissioned prior to application of the support scheme regulated by the Renewable Energy Law, or (iv) 3 years for power generated by non-refurbished hydropower plants with a maximum installed capacity of no more than 10 MW.

The support scheme shall apply to all producers accredited by ANRE provided that the commissioning, the refurbishment respectively, of the generation units occurs by the end of 2016.

#### *Mandatory quotas of renewable energy benefiting from the promotion system*

As of the entry into force of Law No. 23/2014, the annual quotas of renewable energy benefiting from the support scheme (representing the percentage of renewable energy from the final gross consumption of electricity, except for the electricity generated in hydropower plants having an installed capacity of more than 10 MW) for the period 2014-2020 provided by the Renewable Energy Law (which increased gradually from 15% in 2014 to 20% in 2020) have been eliminated.

These quotas will be estimated, published and communicated by ANRE to the Government by 30 June for the subsequent year and will be approved by the Government within 60 days as of the communication thereof by ANRE.

The 2015 quota has been determined by ANRE and approved by the Government at 11.9% of the final gross electricity consumption. The grounds presented by ANRE for such a low quota is that Romania is already close to reaching its 2020 target concerning the percentage of renewable electricity in the final gross consumption.

#### *Number of green certificates awarded to producers*

Electricity producers are awarded a number of green certificates for each MWh of electricity generated by plants using renewable sources of energy (with the exception of the electricity used for own technological consumption), which number varies depending on the renewable energy source. The green certificates awarded to accredited producers under the 2011 version of the Renewable Energy Law were as follows: (i) 3 green certificates for each MWh of electricity generated in new hydropower units having an installed capacity of maximum 10 MW, 2 green certificates for each MWh of electricity generated in the refurbished hydropower units having an

installed capacity up to a maximum of 10 MW and 1 green certificate for each 2 MWh of electricity generated in other hydropower units than the new and refurbished units mentioned above, having an installed capacity of maximum 10 MW; (ii) 2 green certificates up to 2017 and 1 green certificate as of 2018 for each MWh of wind power; (iii) 2 green certificates for each MWh of electricity generated from geothermal energy, biomass, liquid biofuel, biogas (an additional green certificate/MWh is awarded for biomass resulting from energetic cultures), (iv) 1 green certificate for each MWh of electricity generated from landfill gas and sewage treatment plant gas; and (v) 6 green certificates for each MWh of solar power. During the testing period, irrespective of the renewable source of energy used, producers will be granted 1 green certificate/MWh.

*Postponement from trading of green certificates*

For the period 1 July 2013 – 31 March 2017, GEO No. 57/2013, as amended by Law No. 23/2014, postponed the allocation from trading of: (i) 1 green certificate for each MWh of electricity generated in wind power plants and in new hydro power plants with installed capacities not exceeding 10 MW; and (ii) 2 green certificates for each MWh of photovoltaic energy. The postponed green certificates will be recovered gradually starting from 1 April 2017 (for photovoltaic and hydro energy) and from 1 January 2018 (for wind energy), but not later than 31 December 2020. The mechanism under which the green certificates will be recovered is left to the regulatory competence of ANRE, which should issue secondary legislation on this matter. Such postponement measures apply to all electricity producers already accredited by 31 December 2013.

*Reduction of the number of green certificates due to overcompensation*

ANRE has the obligation to monitor on an annual basis the producers benefiting from the support scheme. Should the monitoring report conclude that the support scheme leads to overcompensation for one or more technology(ies), the Government may decrease the number of green certificates for the respective technology(ies) by means of a Government decision; the measures of reducing the number of green certificates shall apply to producers accredited after 1 January following the enactment of said Government decision.

The first monitoring report referred to the year 2012 and, based on its conclusions, the Government adopted GD No. 994/2013. According to this decision, the producers in the wind, solar and hydro sectors, accredited after 1 January 2014, shall benefit from a reduced number of green certificates, as follows: (i) wind power plants - 1.5 green certificates/MWh until 2017 and 0.75 green certificates/MWh starting from 2018; (ii) solar power plants - 3 green certificates/MWh and (iii) new hydro power plants with installed capacities not exceeding 10 MW - 2.3 green certificates/MWh.

ANRE reported that no overcompensation was registered in 2013 and 2014; therefore, the Government did not introduce new reduction measures as of 1 January 2015, nor shall it introduce such measures as of 1 January 2016.

*Exclusions from the application of the promotion system*

GEO No. 57/2013 excludes from the application of the support system the quantities of renewable electricity delivered by dispatchable generation units, which exceed

the quantities notified through the hourly physical notifications submitted by the producers to the transmission and system operator.

An additional exclusion from the support system refers to the photovoltaic plants built on lands which are qualified as agricultural lands on 31 December 2013. No such restrictions apply to other types of renewable technologies.

Also, as per the latest amendments to the Renewable Energy Law, no green certificates are to be issued for electricity generated from renewable sources if such is sold at negative prices. Within 90 days as of the entry into force of such legal provision, ANRE should amend the existing secondary regulations in order to implement this exemption.

*Cumulating green certificates with other State aid(s)*

In the case of plants benefiting from one or several forms of State aid(s) (including EU grants), within the accreditation process, ANRE shall reduce the number of green certificates to be awarded to such producers in order to maintain the internal rate of return considered during the authorization process of the promotion system by the EC.

However, in this scenario, to the extent the reduction of the number of green certificates leads to sub-unitary number of green certificates, the postponement measure introduced by GEO No. 57/2013 mentioned above will no longer be applied.

Also, such reduction mechanism shall apply only after the EC issues its clearance on the latest amendments of the Renewable Energy Law.

*Specific rules applicable to renewable projects the capacity of which exceed a certain threshold*

Until recently, developers of plants generating renewable energy which had an installed capacity of more than 125 MW were subject to a detailed assessment performed by the EC and were entitled to benefit from the green certificates support system only after the completion of such assessment. In this case, ANRE may modify the number of green certificates to be awarded to the developer of the respective power plant, in accordance with the provisions of the authorization decision of the EC.

However, meanwhile, new EU guidelines have been issued which raise the 125 MW threshold to 250 MW and the Renewable Energy Law was aligned with such EU guidelines.

*Market players having the legal obligation to purchase the green certificates*

Electricity suppliers have the obligation to purchase a number of green certificates corresponding to the quantity of electricity (i) purchased and used for their own consumption purposes and (ii) supplied and invoiced to final consumers, multiplied by a mandatory quota of green certificates acquisition determined by ANRE (as a number of green certificates/MW) for the respective year.

Similarly, electricity producers have the obligation to purchase a number of green certificates corresponding to the quantity of electricity used for their own consumption purposes (other than technological consumption) and for supplying consumers connected directly to the electricity plant, multiplied by the mandatory quota of green certificates acquisition determined by ANRE for the respective year.

Such acquisitions of green certificates shall be made quarterly, based on the quantity used or invoiced in the respective quarter.

The value of the green certificates acquired by the suppliers/producers for meeting the mandatory green certificates acquisition quota is further invoiced to final consumers, either at the average weighted price of the centralized market transactions concluded in the month preceding the invoice issuance month or at the last available average monthly weighted price. However, certain final consumers (i.e. energy intensive industrial consumers) are exempted from the obligation to pay the green certificates' value for part of their energy consumption. The requirements for qualifying for the exemption, as well as the exempted quantities have been approved through a Government decision and authorized by the European Commission on 15 October 2014.

#### *Trading green certificates*

As regards the trading of green certificates, GEO No. 57/2013 imposed the obligation that such be traded in a transparent, centralized and non-discriminatory manner, on the centralized markets managed by OPCOM S.A. (i.e. a joint stock company wholly owned by the Romanian transmission and system operator, in charge of the administration of the energy and green certificates markets). Consequently, as of 1 July 2013, green certificates may no longer be traded through sale purchase agreements concluded by means of direct negotiations.

Nevertheless, Law No. 23/2014 has implemented an exception to such rule, namely (i) the producers operating plants which have an aggregate capacity not exceeding 1 MW per producer, accredited for the green certificates support system, and (ii) the producers operating high efficiency cogeneration plants based on biomass with an aggregate installed capacity not exceeding 2 MW per producer,

accredited for the green certificates support system; which may sell the green certificates based on directly negotiated agreements concluded with the suppliers of the final consumers on the green certificates bilateral agreements market (part of the green certificates market operated by OPCOM).

For the period 2008—2025, the trading value of the green certificates may not be less than EUR 27 (minimum value) or higher than EUR 55 (maximum value) per green certificate; starting from 2011, such values are indexed with the average inflation rate of the Euro zone within the European Union calculated for the previous year and communicated by Eurostat. For the year 2015, such indexed values amount to EUR 29.3971 and EUR 59.8856 respectively.

#### **4. What are the principal regulatory bodies in the renewable energy sector?**

The Romanian energy sector (*i.e.* electricity, including renewable sources, natural gas and cogeneration) is regulated by ANRE, an autonomous authority, under the control of the Parliament, independent from decision-making, organizational and functional perspectives.

ANRE is entirely financed from its own income deriving from tariffs charged for the release of authorizations and licenses, annual contributions of the participants to the energy market and funds granted by international bodies.

In brief, ANRE's main duties consist of drafting, approving and monitoring the application of the mandatory national regulations aimed at ensuring that the energy market works in efficient, competitive, transparent and consumer protective conditions.

With particular view to the renewable energy sector, ANRE is responsible for issuing the secondary legislation governing the system for the promotion of electricity from renewable sources.

Also, OPCOM, in its capacity as administrator of the electricity and green certificates centralized markets, issues specific procedures on the registration and operation of such markets, which are subsequently endorsed by ANRE.

### 5. What are the main permits/ licenses required for renewable energy projects?

An outline of the main permitting and other requirements to be complied with for the development (*i.e.* reaching the ready to build phase) and operation of a power generation project from the perspective of the relevant regulations applicable in the real estate, environmental protection and energy sectors, is presented herein below. Depending on the specificity of the project, other permits and requirements may prove necessary to be obtained/observed.

#### *Development Phase*

#### **Real estate related permitting requirements**

- **Urban planning certificate**

An urban planning certificate is an informative act issued by the public authorities with a view to (i) provide information about the legal, economic and technical regime of the real estate property where the project is envisaged to be located, as per the approved urban planning documentations; (ii) establish the urban planning requirements, depending on the specificity of the location; (iii) provide a list of endorsements and permits, necessary for the authorization of construction works; and (iv) establish the applicant's obligation to address the competent environment protection

authority, in order to obtain the point of view of such authority and, if applicable, the relevant administrative act.

Obtaining an urban planning certificate is mandatory for the purpose of performing the construction works for an electricity generation plant and for obtaining a building permit.

- **Urban planning documentation (if applicable)**

Under Romanian law, the area corresponding to each locality is subject to three types of urban planning documentation: (i) the general urban plan (in Romanian "Plan urbanistic general" - PUG) having a general applicability to the entire locality area and establishing, inter alia, the delimitation of the *intra muros* territory, the use of the *intra muros* land plots, the protected areas, the areas with a special protection regime as per the legislation in force, the development of the urban technical infrastructure, requirements pertaining to the location and characteristics of the constructions; (ii) the zoning urban plan (in Romanian "Plan urbanistic zonal" - PUZ) having applicability on certain specific areas of the locality and ensuring the correlation of the integrated urban development programs of the zone with the provisions of the PUG; and (iii) the detailed urban plan ("Plan urbanistic de detaliu" - PUD) having applicability on one parcel in connection with the neighbouring parcels and containing requirements on the drawbacks from the lateral and back limits of the parcel, vehicle and pedestrian access, the occupancy of the land.

If following the application for the issuance of the urban planning certificate for a construction project, the issuer thereof concludes that the envisaged project, the specificity of the location or the nature of the investment does not comply with the urban planning documentation approved for the

respective area, in principle, it has the right either to condition the issuance of the building permit on the approval of new urban planning documentation; or, in case the change of the urban parameters is not legally possible under the urban regime of the respective area, to simply deny the request.

Once the new urban planning documentation is approved, the technical documentation for obtaining the building permit for the project may be drafted, exclusively in compliance with such new urban planning documentation.

- **Prior approvals and endorsements established in the urban planning certificate**

An urban planning certificate lists all the endorsements and approvals necessary for the issuance of the building permit. Generally, such endorsements are related to the access and connection to the urban infrastructure, as per the conditions imposed by the emplacement and characteristics of the energy transmission/ distribution systems in the area, the connection to the communication networks, the fire security, civil safety and public health safety, the specific requirements for certain areas with restrictive construction conditions established by special regulations and the point of view of the competent authority for the environment protection.

- **Building permit**

A building permit is the final administrative act authorizing the performance of construction works and ensuring the compliance with the legal provisions regarding emplacement, design, execution, operation and post-use of constructions and afferent installations. It may include relevant requirements to be observed during the execution of construction works, such as (i) conditions for the use of public property; (ii) protection of the neighboring real estate property; (iii) social and sanitary

protection measures in case of temporary workers' accommodation; and (iv) measures for fire prevention.

A building permit is issued based on specific documentation which includes *inter alia* (i) the title over the real estate property, land and/or constructions; (ii) the urban planning certificate; (iii) the approvals and endorsements mentioned in the urban planning certificate; and (iv) technical documentation etc.

### **Environmental protection related permitting requirements**

- **Environmental permit**

An environmental permit is necessary if the construction of the project entails drafting or amendment of plans or programs within the meaning of Directive 2001/42/EC on the assessment of the effects of certain plans and programs on the environment - SEA Directive (e.g. drafting / amendment of the urban plans etc.).

- **Environmental agreement**

An environmental agreement is required for projects listed under Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (EIA Directive) and attests that the development of the project complies with the environmental requirements. This agreement only focuses on the project; it may not be regarded as an authorization for the operation phase.

When deciding upon the issuance of the environmental agreement, the authorities base their decision on an environmental impact assessment prepared by an authorized expert, which analyzes the impact over all relevant environmental factors (soil, air, water etc.).

The competent authority may refuse to issue the agreement if the project would cause a severe impact on the environment. However, in most situations, rather than refusing to issue the agreement, the competent authorities provide for a series of obligations aimed at reducing the impact on the environment.

If the envisaged project may generate a possible impact on protected areas, the environmental authorities must conduct an adequate assessment on such impact and seek the opinion of the relevant manager / custodian of the respective protected area.

- **“Natura 2000” permit**

Where the development of the project might create an impact on Community interest protected areas, a special environmental permit “Natura 2000” shall be issued. For plans/programs/projects that are subject to assessments for issuing the environmental permit, or the environmental agreement, the adequate assessment on possible impact on Community interest protected areas is integral part of the SEA/EIA procedure, therefore no other application is necessary for the issuance of the “Natura 2000” permit.

- **Water location endorsement**

Certain buildings to be erected (i) at less than 500 m outside the 30 m meteorological platforms protection zone, as well as (ii) within floodable areas or within protection areas around waters are subject to the issuance of a water location endorsement.

The competent authority may refuse to issue the endorsement if the relevant building is not secure. However, in most situations, rather than refusing to issue the endorsement, the competent authorities provide for a series of obligations or indications aimed at reducing the risk.

- **Water management permit**

This permit is required if the construction of the project would cause an impact on waters and attests that the construction of the project complies with the requirements in the water management field. This agreement only focuses on the building phase; it may not be regarded as an authorization for operating the facility.

### **Energy related permitting and other requirements**

- **Grid connection permit**

The grid connection permit represents the offer made by the grid operator for connecting a certain generation unit to the electricity grid and contains the technical-economic terms for such connection. The issuance thereof is preceded *inter alia* by the elaboration of a solution study which analyzes the available options for connecting the project to the grid and is endorsed by the relevant grid operators.

Access to the grid may be restricted in case the connection of the project affects the safety of the national energy system due to the failure to observe the technical norms and performance standards or if the grid operator does not have the necessary capacity.

Generally, the permit is valid until the issuance of the connection certificate (please refer to the Operation Phase), but it ceases its validity prior to such moment in certain cases among which if within 12 months as of its issuance date the connection agreement is not concluded or if the connection agreement is terminated.

- **Connection Agreement**

In case the project’s connection to the grid entails performing certain works, following the issuance of the grid connection permit, the holder of the grid connection permit has to

conclude a connection agreement with the relevant grid operator. The subject matter of this agreement shall be the performance of the necessary works for connecting the project (*i.e.* works concerning the installations located between the connection point - physical point of the grid to which the project will be connected, and the delimitation point - point delimitating the installations owned by the developer of the facility from the installations belonging to the grid operator) and the energization of the project. The works for the installations located downstream the delimitation point fall under the responsibility of the developer. In exchange for the performance of the above mentioned connection works, the developer pays the connection tariff.

- **Setting-up authorization**

The execution of any electricity generation capacity having an installed capacity exceeding 1 MW is conditional upon obtaining the setting-up authorization from ANRE.

Such authorization is released based on specific documentation, which includes, *inter alia*, documents attesting the financing sources for building the generation capacity (pre-contractual arrangements attesting the financing sources may also be accepted, while the actual financing contracts may be submitted within the specific term set out in the authorization), the grid connection permit, the environmental agreement and documents attesting the rights over the lands where the generation capacity shall be located.

### *Operation Phase*

#### **Real estate related permitting requirements**

- **Reception of the construction works**

The reception of construction works is part of the constructions' quality system and represents the act which certifies the

completion of the construction works according to the building permit, the various permits and approvals obtained during the permitting process, as well as with the approved technical project.

- **Reception for the commissioning of the project**

In case of construction works related to machinery, equipment, technological installations and generation capacities, beside the reception of the constructions themselves, there is also a special reception which has to be carried out for works related to the technological installations, equipment and machineries, as well as for the commissioning thereof. Consequently, the developer should perform both a reception of the construction works and a commissioning reception, each one applied to the relevant parts of the project.

- **Registration for tax purposes**

According to the relevant legal provisions, all types of constructions must be registered for tax purposes with the local fiscal authorities.

Ownership taxes are due starting with the month following the one when the developer acquired the ownership right.

- **Registration with the Land Book**

Registration with the Land Book of the ownership right over the constructions part of the project is a mandatory procedure in order to ensure the enforceability against third parties and stability of the right so acquired. The registration with the Land Book must be performed based on cadastral measurements reflected within the cadastral documentation submitted to the Land Book Office.



- **Civil protection authorization and fire security authorization**

The civil protection authorization is an administrative act attesting to the fulfillment of the measures for complying with the civil safety requirements, while the fire security authorization is an administrative act attesting to the fulfillment of the measures for complying with the fire security requirements and applies, *inter alia*, to constructions having a build up area equal to or exceeding 600 sqm.

### Environmental protection related permitting requirements

- **Environmental authorization**

The environmental authorization is mandatory in case of performing activities causing an impact on the environment. It establishes the requirements and the parameters for the operation of the project from the environmental perspective and is valid for 5 years.

- **Water management authorization**

The water management authorization establishes the requirements and the parameters for the operation of the project from the water management perspective and should be obtained for projects which may generate impact on waters. The water management authorization is valid for a maximum of 5 years, but it can be renewed without any overall limitation.

### Energy related permitting and other requirements

- **Preliminary energization for tests**

Such procedure is mandatory to the extent the technical norms in force impose the performance of tests for the project. In this case, the preliminary energization shall be

provided in the connection agreement and it will last until complying with the conditions for final energization, but no more than 24 months.

- **Connection certificate**

The connection certificate certifies the fulfillment of the conditions provided in the grid connection permit and further establishes technical conditions for using the grid after energizing the project. The final energization of the project is conditional upon the issuance of the connection certificate.

- **Final energization**

The connection process is deemed completed after the final energization of the project. If the preliminary energization of the project is not mandatory, the issuance of the connection certificate shall be succeeded directly by such final energization.

- **Electricity generation license**

The performance of the electricity generation activity is conditional upon obtaining from ANRE the corresponding license based on specific documentation (which includes, *inter alia*, documents attesting the right of ownership/use over the generation capacities, the connection certificate, documents attesting to the initiation of the process for obtaining the environmental authorization).

The license is issued for a maximum period of 25 years. The duration thereof may be further extended subject to filing an application together with specific documentation at least 60 days prior to the expiry date.

- **Accreditation for accessing the green certificates support system**

The accreditation of the project is a compulsory step for benefiting from the green

certificates promotion system and may be obtained either in two stages (*i.e.* a preliminary accreditation during testing period and a final accreditation, after commissioning the project) or in a single stage, after commissioning the project.

The accreditation decision shall be issued based on specific documentation, which includes, *inter alia*, technical documentation, information on investment costs/other State aid, certificates of origin (in case of biomass/bio liquids/biofuel based projects), and commissioning reception minutes etc.

- **Registration on the Green Certificates Market**

The Green Certificates Market is a competitive market for trading green certificates (independent from the trade of electricity) and comprises two segments, namely: (i) the market of bilateral agreements, where participants conclude green certificates sale-purchase agreements, either further to a public auction process, or directly, only in case of renewable producers (up to 1 MW) and high efficiency cogeneration producers based on biomass (up to 2 MW); and (ii) the centralized market, which ensures a transparent competitive trading environment and offers a reference price for the bilateral agreements.

Registration is mandatory in order to trade green certificates.

- **Undertaking balancing responsibilities**

In order to participate on the wholesale electricity market, every operator should undertake the financial responsibility towards the Transmission and System Operator (TSO) for the impact caused by participants' actions over the national energy system, either by registering as a balancing responsible party or by delegating such responsibility to another balancing responsible party.

- **Registration as participant on the Balancing Market**

The Balancing Market is a centralized market operated by the TSO for collecting the delivery offers for the balancing electricity transmitted by the participants and for using such in order to ensure the operational safety and stability of the national energy system and resolving the grid restrictions.

Participation in the Balancing Market is mandatory for electricity producers licensed to operate dispatchable generation units (*i.e.* a (generating) unit which can comply with a dispatch order and which has an installed power of more than 10 MW – hydropower units / 20 MW - turbo generating units (including nuclear/biomass generators, etc.) / 5 MW – wind/solar units/plants with internal combustion engines).

- **Registration on the centralized wholesale markets**

As it shall be further detailed in a subsequent section, wholesale electricity transactions can only be performed in the centralized markets operated by OPCOM. As such, in order to be able to trade the generated electricity, producers should first register in any of the centralized markets referred to below.

#### *Centralized Market of Bilateral Agreements*

The Centralized Market of Bilateral Agreements is an organized market where bilateral agreements are awarded either through extended auction (an auction in which bids are accepted from both sides, *i.e.* sale and purchase) or through continuous negotiation (a negotiation method whereby both the bid price of the initiators, and the bid price of the respondents are subject to change, and the transactions are completed whenever the correlation conditions are met).

In this centralized market, transactions shall be performed based either on framework agreements (*i.e.* agreements with predefined structure and provisions, which contain (i) standard clauses, accepted by all market participants, that cannot be modified; and (ii) specific clauses which refer exclusively to payment terms and methods, as well as financial guarantees or penalties), in case of transactions concluded further to an extended auction; or on standard agreements (*i.e.* agreements having predefined structure, terms and conditions, accepted by all market participants, not subject to any amendments), in case of transactions concluded further to continuous negotiation.

#### *Over the Counter Market*

The Over the Counter Market ensures a platform for real time trading by means of bilateral sale-purchase agreements in transparent conditions and a non-discriminatory access to the market, based on the eligibility criteria of each participant. The participants shall have their own eligibility list of potential contractual partners with which they have already agreed on the form of the sale-purchase agreement (EFET agreements).

#### *Day Ahead Market*

In the Day Ahead Market, electricity sale and purchase transactions are performed based on the offers submitted by the participants on such market and the electricity is delivered the day subsequent to the trading day. OPCOM acts as counterparty for each transaction performed on this market.

#### *Intra Day Market*

The Intra Day Market is aimed at providing its participants with a supplementary instrument for improving the balance of their portfolio for one delivery day. On this market, transactions are performed in sessions organized between the

conclusion of transactions on the Day-Ahead Market for the respective delivery day and a certain time interval prior to delivery, based on firm hourly offers submitted by the participants.

Just as in the case of the Day Ahead Market, OPCOM acts as counterparty for each transaction in this market.

### **6. Is there a category of “license-exempt generation”? If so, does it cover some types of renewable energy based generation?**

From a permitting perspective, the Romanian law does not make any distinction between conventional sources and renewable sources projects and thus the exemptions provided for by the law apply to the same extent to renewable energy projects.

As such, setting-up authorizations are not required if the project’s capacity does not exceed 1 MW, while electricity generation licenses are not mandatory for generation capacities which may be switched on without electricity from the system and which are used for the safety supply of the equipment or installations of the holder of such capacity.

Other than that, the licensing regulation provides for shorter terms for the issuance of authorizations and licenses in the renewable sector (*i.e.* 30 days as of filing the complete documentation as opposed to 60 days applicable to conventional sources of energy).

## **INCENTIVES**

### **7. Are tax advantages available to renewable energy generation companies?**

Currently, the Romanian legislation does not provide for any tax advantages for producers of electricity generated from renewable sources.

**8. Is there a purchase guarantee given by the relevant legislation for the electricity generated by renewable energy companies?**

As detailed under section 3 above, the generation of electricity from renewable energy sources is supported only by the green certificates system. As such, in principle, renewable electricity is traded following the general trading rules applicable to electricity, irrespective of the generation source.

However, until the fulfillment of the national targets regarding the percentage of electricity obtained from renewable energy sources out of the total final gross consumption, the electricity produced from renewable sources which benefits from the promotion system may be traded only with a view to cover the gross final consumption of electricity in Romania.

As regards applicable trading rules, while the former energy law (in force until 19 July 2012) allowed for wholesale electricity transactions to be carried out both by means of bilateral agreements concluded through direct negotiations, as well as in the centralized markets operated by OPCOM, the current energy law requires transactions to be concluded in a transparent, public, centralized and nondiscriminatory manner. According to ANRE's official interpretation of such legal provisions, wholesale electricity transactions can only be performed in the centralized markets operated by OPCOM, namely: (i) the Centralized Market of Bilateral Agreements; (ii) the Over the Counter Market; (iii) the Day Ahead Market and the (iv) Intra-Day Market, each having its specific trading rules.

Nevertheless, in accordance with Law No. 23/2014, as of 17 March 2014, the following categories of producers benefiting from the support system, may conclude electricity sale-purchase agreements by means of direct negotiations with the suppliers of the final

consumers: (i) the producers operating power plants, which have an aggregate capacity not exceeding 1 MW per producer; and (ii) the producers operating high efficiency cogeneration plants based on biomass, which have an aggregate capacity not exceeding 2 MW per producer.

In addition, as per the latest amendment to the Renewable Energy Law, renewable power producers operating power plants with installed capacity (a) between 1 MW to 3 MW per producer and (b) between 2 MW to 3 MW per producer in case of high efficiency cogeneration based on biomass, which benefit from the support scheme and qualify as small and medium sized enterprises under the law, may conclude electricity sale-purchase agreements through direct negotiation.

Furthermore, in accordance with the Renewable Energy Law, the electricity generated from renewable energy sources in plants having an installed capacity of no more than 1 MW, or 2 MW in case of high efficiency cogeneration plants using biomass, can be sold at regulated prices, in which case the so sold quantity of electricity shall not benefit from the green certificates promotion system. Upon the request of such producers, the suppliers are obliged to purchase these quantities of electricity. The trading conditions and the regulated prices should be established by ANRE based on a methodology and notified to the EC; nonetheless, up to this date, ANRE has not enacted such methodology.

**9. Is there a minimum price guarantee given by the relevant legislation for the electricity generated by renewable energy companies?**

Currently, the electricity generated from renewable energy sources benefits from the green certificates support system, as detailed in section 3 above.

However, as mentioned in the previous section, the electricity generated from

renewable energy sources in plants having an installed capacity of no more than 1 MW, or 2 MW in case of high efficiency cogeneration plants using biomass, could be sold in the future at regulated prices to be established by ANRE, but the secondary implementing legislation has not been issued yet.

Furthermore, a measure envisaged by the recent legislation amending the Renewable Energy Law is the implementation of a new State aid scheme relying on regulated prices for each type of technology, aimed at supporting generation of electricity from renewable energy sources in units having an installed capacity of less than 500 kW. The State aid scheme should be drafted by ANRE together with the competent ministry within 90 days as of the entry into force of the latest amendments to the Renewable Energy Law and approved by Government decision within another 30 days.

#### **10. Has the Kyoto Protocol been ratified? What is the general regime for carbon credits?**

##### ***General***

In 2001, Romania was among the first states to ratify the Kyoto Protocol on climate change. In 2006, Romania transposed Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community (Directive 2003/87/EC). As of 1 January 2007, Romania has implemented the carbon allowance trading scheme and a limit is set on overall emissions from high emitting industry sectors, this limit being reduced each year.

##### ***Greenhouse gas emission allowances and permits***

The greenhouse gas emission allowance/certificate is the title granting its holder the right to release one tonne of CO<sub>2</sub> equivalent in a certain period of time (a tonne of carbon dioxide equivalent meaning one metric tonne of CO<sub>2</sub> or an amount of any

other greenhouse gas listed in Annex No. 2 to Government Decision No. 780/2006 on the establishment of the trading scheme for greenhouse gas emission allowances, as further amended and supplemented (GD No. 780/2006), with an equivalent global-warming potential).

Starting with the 1<sup>st</sup> of January 2007, for the installations where one or more of the activities provided in Annex No. 1 to GD No. 780/2006 are performed and which generate specific emissions, the operator must (i) hold and submit an adequate number of greenhouse gas emission certificates allowing it a limited level of greenhouse gas emissions and (ii) have a greenhouse gas emission permit issued by the Ministry of Environment, Waters and Forests in accordance with Order No. 3420/2012 of the Minister of Environment, Waters and Forests approving the procedure for the issuance of greenhouse gas emission permits for the period 2013-2020.

The authority issues the greenhouse gas emission permit for the entire installation or for a part thereof if the operator meets the requirements on the monitoring and reporting of greenhouse gas emissions, as provided in Commission Regulation (EU) No. 601/2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council. The operator must inform the Ministry of Environment, Waters and Forests on the planned or actual changes of the capacity, activity level or operation of an installation, in accordance with Article 24(1) of Commission Decision 2011/278/EU of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC. The Ministry reviews the greenhouse gas emission permit every 5 years at the most or whenever it is necessary.

### *Allocation of greenhouse gas emission allowances in the electricity production sector*

The revised Directive 2003/87/EC introduces the concept of a harmonized EU approach for the allocation of greenhouse gas emission allowances, providing that from 1 January 2013 to 31 December 2020, the basic rule for the allocation of allowances in the electricity production sector will be the acquisition of greenhouse gas emission allowances by auction (except for emissions generated by combustion gas and for transitional derogations). The auctioning procedure of greenhouse gas emission allowances is regulated in Romania under Government Emergency Ordinance No. 115/2011 establishing the institutional framework and authorization of the Government, through the Ministry of Public Finance, to auction the greenhouse gas emission certificates attributable in Romania at EU level.

As of the third period of the scheme for the trading of free allocations of greenhouse gas emission allowances, *i.e.* 2013-2020, the quantity of greenhouse gas emission allowances allocated annually shall be decreased in a linear manner.

For electricity producers which were operating as of 31 December 2008 or the investment process of which had been initiated by the same date, transitional free allocations of greenhouse gas emission allowances are granted, provided that the equivalent value of the allocated allowances is used to finance certain specific investments (as included in the National Investment Plan). The mechanism for the free allocation of greenhouse gas emission allowances to electricity producers for 2013-2020 (as well as the national Investment Plan) are approved under Government Decision No. 1096/2013.

### *Registration of greenhouse gas emission allowances*

Greenhouse gas emission allowances are registered in accounts opened in the names of the relevant holders; the Ministry of Environment, Waters and Forests is the national manager of the accounts in the sole register. The register ensures the record of greenhouse gas emission allowances which are issued, held, transferred and annulled, including the operations with greenhouse gas emission units provided in the Kyoto Protocol.

The operator of each installation must return, by 30 April of each year, a quantity of greenhouse gas emission allowances corresponding to the total amount of greenhouse gas emissions resulting from such installation during the previous calendar year, and these allowances shall be annulled subsequently. For failure to comply with the provisions of the above paragraph, a penalty of EUR 100 shall be applied, for each tonne of issued carbon dioxide equivalent for which the operator did not return the greenhouse gas emission allowances. The payment of the penalties does not exempt the operator from the obligation to return the greenhouse gas emission allowances and the penalty may be applied again in the next calendar year. The obligation to return the greenhouse gas emission allowances does not apply to the emissions which, according to the verifications, are caught and conveyed, for permanent storage purposes, in a site for which a valid storage permit is issued, in accordance with Government Emergency Ordinance No. 64/2011 on the geological storage of carbon dioxide implementing Directive 2009/31/EC on the geological storage of carbon dioxide.

Greenhouse gas emission allowances can be transferred (i) between Romanian residents and residents from other Member States of the European Community and (ii) between Romanian residents and those from third states, other than members of the European

Community, only if the greenhouse gas emission allowances are mutually recognized on the basis of the international agreements executed by the European Community and other countries provided in Annex B to the Kyoto Protocol. The greenhouse gas emission allowances issued by the competent authorities of other EU Member States are recognized by the Romanian central environmental protection authority.

### **11. Do the renewable energy based power plants have priority for connection to the grid?**

Considering the limited capacity of the Romanian electricity grids, access thereto proved to be one of the crucial steps in the development of new electricity generation projects in Romania. The projects for which grid connection permits have been issued and grid connection agreements have been concluded (and which are not yet developed) significantly exceed the capacity of the power grid.

As such, most of the grid connection permits issued during the last period of time (especially those approving the connection to grids located in the most crowded areas, *i.e.* Dobrogea, Moldova and Banat) provide that the connection to the grid is conditional upon the performance of specific reinforcement works to the existing transmission/distribution grids. To this end, to the extent the generation capacity has an installed capacity of more than 1 MW and for the connection thereof to the grid, grid reinforcement works are necessary, the beneficiary of the grid connection permit has the obligation to provide financial guarantees to the benefit of the grid operator issuing the grid connection permit. Until 31 December 2014, the maximum value of the guarantee could have not exceeded 20% of the connection tariff; following such date, the maximum value should be revised annually upon the proposals of the grid operators (no revised value is currently available).

As regards the operation phase, grid operators are required under the law to ensure, based on transparent and non-discriminatory criteria, for all producers of electricity generated from renewable sources, irrespective of the installed capacity of their projects, the transmission and priority dispatch of the electricity, including the possibility to modify the notifications during an operation day, so that the limitation or interruption of the production of electricity generated from renewable sources be applied only in exceptional cases, if such is necessary for the stability and security of the national electro-energetic system.

Also, as per the Renewable Energy Law, the electricity benefiting of the support system, contracted and sold on the market, has guaranteed access to the grid (defined under the law, as the technical and commercial conditions based on which the take-over of electricity benefiting of the support system, contracted and sold on the market, is guaranteed), while the electricity generated from renewable sources which is sold at regulated prices (and does not benefit from the support system) has priority access to the grid (defined under the law as the technical and commercial conditions based on which certain categories of producers of electricity from renewable sources are ensured the possibility of taking over at any time and sale of the entire electricity generated at a given moment, depending on the capacity of the connection to the grid and the availability of the eligible units/resources, to the extent the safety of the national electro-energetic system is not affected); however, until the establishment by ANRE of the regulated prices, such energy benefits from priority access as well.

### **12. Is there an incentive for domestic (local) manufacturing of equipment or materials used in the construction of renewable energy based power plants?**

Under the current legal framework, there are no specific incentives aimed at promoting the

manufacture of equipment or materials used in the construction of renewable energy based power plants.

Such incentives, however, would be available under the general framework on regional aid granted for initial investments. Based on GEO No. 85/2008 on stimulating investments (general framework), the relevant authorities acting as State aid suppliers may grant ad hoc incentives or issue general State aid schemes aimed *inter alia* at, “promoting the production of equipments for increasing power efficiency and the use of renewable energy”. Different types of incentives may be granted: non-refundable financial allocations to purchase tangible and intangible assets, incentives for newly-created jobs, interest bonuses and premiums granted upon contracting credits and other facilities.

Recently, a *de minimis* State aid scheme (namely the *de minimis* aid scheme for "Financing projects from the Energy Efficiency Program (RO 05) of the Financial Mechanism of the European Economic Area 2009-2014", approved by Order of the Economy Minister No. 1212/2014) for initial investments, aimed at promoting energy efficiency was adopted. The objective would be to reduce the energy consumption in Romania in line with the Europe Strategy 2020, the Green Paper "European Strategy for Sustainable, Competitive and Secure Energy", the document "An Energy Policy for Europe", the Kyoto Protocol to the United Nations Framework Convention on Climate Change and Gothenburg Protocol.

The State aid scheme aims to: a) encourage the use of inventions and innovations in order to reduce energy consumption and the purchase of specific innovative equipment; b) limit the emission of greenhouse gases, with positive influences on sustainable development; and c) create jobs. The incentive is addressed to small and medium enterprises which perform initial investments (*i.e.* an

investment in tangible and intangible assets related to: 1) the setting-up of a new establishment; 2) the extension of the capacity of an existing establishment; 3) the diversification of the output of an establishment into products not previously produced in the establishment; or 4) a fundamental change in the overall production process of an existing establishment) in any of the 8 regions of Romania.

The support measures granted to companies consist of non-reimbursable amounts from EU and national funds. The maximum value of the financing is of 70% of eligible costs, respectively minimum EURO 60,000 and maximum EURO 200,000. The total number of beneficiaries is 115 and maximum budget allocated to the scheme is EURO 6,953,000. The scheme is valid until 30 April 2016.

### **13. What are the other incentives available to renewable energy generation companies?**

For the period 2014-2020, the EU has allocated to Romania funds of approximately EUR 22.4 billion within the cohesion policy financed from structural funds, *i.e.* the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the Cohesion Fund (CF).

The negotiations between Romania and EU as regards Romania's funding priorities from the EU budget during the period 2014-2020 resulted in a Partnership Agreement between Romania and the EU, approved by the EC on 26 August 2014.

The objectives of the cohesion policy will be fulfilled via 9 operational programs, out of which renewable energy projects could be financed mainly from the Regional Operational Program (ROP) 2014-2020 that was submitted to the EC in January 2015, but not approved yet.



Also, some additional measures related to the energy sector could be financed from the Large Infrastructure Operational Program (LIOP) 2014-2020, submitted to the EC in October 2014, but has not been approved yet.

Once the operational programs are approved, the management authorities of these programmes will initiate periodically, during the period 2015-2020, until the allocated funds are exhausted, call for proposals for each measure in each priority axis of an operational program, along with the rules according to which the funds are to be granted and the rules on the financing applications and the eligible beneficiaries of the financing.

## STATISTICS

### 14. What is the percentage of electricity generated based on each type of renewable energy source in the total generation of electricity on a country wide scale?

Publicly available information reveals that in 2014, out of the total electricity generated in

Romania, more than 43% was generated from renewable sources as follows:

Hydro	31.32%
Wind	9.64%
Solar	1.55%
Biomass	0.64%
Others	0.03%

(Source ANRE Report on the results of the electricity market monitoring in December 2014)

As regards the total generation capacity installed as at 1 April 2015, out of a total of 23,024.527 MW, renewable energy generation capacities covered 10,969.281 MW, as follows:

Hydro	6648.869 MW
Wind	2962.569 MW
Solar	1256.185 MW
Biomass	101.608MW
Geothermal	0.050 MW

(Source: The official website of the Romanian transmission and system operator (Transelectrica))

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