

ROMANIA – COUNTRY REPORT 2006

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BACKGROUND

The expert team from the Energy Community Secretariat (Mrs. Violeta Kogalniceanu and MR Alfred Schuch) has visited Romania as the Contracting Party of the Energy Community Treaty in order to identify the current situation and ongoing activities related to alignment of the national legislation with the Acquis in the fields of the EnC Treaty (energy, environment, energy efficiency, renewables and competition). Furthermore, ongoing and planned projects of national and regional significance from a viewpoint of Romania have been discussed as to recognise infrastructural priorities in the process of development of regional energy market. Institutional capacity building has been also discussed.

This country visit is the first one undertaken by the Energy Community Secretariat with the aim of providing support to parties in the process of developing the national roadmaps, and of identifying the issues, which should be the key elements for the regional roadmap, from the perspective of Romania. During the visit the expert team had 6 meetings in total, with representatives of the following institutions: Energy Policy Directorate of the Ministry of Economy and Trade, the Energy Conservation Agency, the National Gas Regulatory Authority, the Ministry of Environment and Water Management, the Romanian Electricity and Heat Regulatory Authority and the TSO/Market Operator, and the Competition Council.

The following EnC Treaty topics were discussed in these meetings:

- Energy policy, Energy Road map, Electricity regulatory framework and market design and operation; institutional framework: structure, powers, staffing, training, coordination; legal basis (the Acquis), specific initiatives within Electricity Transition Strategy and Electricity Market Options Paper; secondary legislation that is still pending, full market opening schedule, promotion of electricity from renewable energy sources, ongoing projects and other activities...
- Natural gas related topics with respect to institutions (existence, powers, staffing, training, coordination), legal basis (the Acquis), pending issues, ongoing projects and other activities.
- Environment, energy efficiency and related topics were discussed with respect to institutions (existence, powers, staffing, training, coordination), legal basis (the Acquis), specific initiatives, identified pending legislation, existence of funds, ongoing projects and programmes, and other activities, agencies responsible for implementation...
- Topics related to competition, state aid, abuse of power, monitoring for market concentration in gas and electricity sectors, etc. anti trust monitoring activities, etc. were discussed with respect to institutions (existence, powers, staffing, training, coordination), legal basis (the Acquis), specific initiatives, identified problems, ongoing projects and other activities...

The findings from the country mission are presented in this inception report which was prepared on the basis of questionnaires, presentations and other materials sent to ECS by the party, as well as the discussions held in Romania.

1. INSTITUTIONAL BUILDING

This chapter aims to review the institutional framework envisaged in each state and the distribution of tasks between them.

1.1. Ministries

Energy:

Romania has not a Ministry of Energy, but a Ministry of Economy and Trade, with a Directorate General for Energy Policy (www.minind.ro). The Directorate is responsible for the preparation of policy documents and the legal framework in the energy sector including: electricity, natural gas, petroleum, renewable energy sources and energy efficiency, as well as for the privatization of energy companies.

Romania concluded the negotiations for the accession to the EU, on energy (Chapter 14) in 2004. This indicates that the primary legislation to transpose the Acquis was adopted and a timetable for implementation was prepared. The 2005 Comprehensive Monitoring Report prepared by the European Commission and released on 25 October 2005, recognized especially the following progress with the implementation of the Energy related Acquis:

- As regards security of supply, and in particular oil stocks, framework legislation is in place and in line with the Acquis;
- Implementing legislation for further building-up oil stocks is still to be adopted;
- The administrative capacity in the Ministry of Economy and Trade and the Administration of State Reserves is in place but needs further strengthening.

Key primary energy legislation adopted by Romania that is relevant for the Energy:

- The Electricity Act – adopted by Law nr. 318/2003. This is up for revision and was put for public debate on the Electricity Regulator's website. The new law is expected to be passed by the Parliament no later than June 2006;
- The Gas Act – adopted by Law nr. 351/2004, modified and completed by Law nr. 288/2005;
- Public Utility Services Act- adopted by Law nr. 51/2006;
- The Competition Law 21/1996, amended and republished in July 2005;
- The Energy Efficiency Law nr. 199/2000, amended by Law 56/2006;
- The Petroleum Act – adopted by Law nr. 203/2004;
- The Mining Act – adopted by Law nr. 85/2003, modified and completed by Law 237/2004.

Besides these, primary legislation related to restructuring and privatization of the energy sector was passed.

Secondary legislation, required to achieve the energy sector reform and the internal market was adopted or is in the preparation stage. Relevant secondary legislation adopted by 1 May 2006, included:

- Government Decision nr. 1254/2005 on national reference tariff of heat and sanitary hot water supplied by District Heating;
- Government Decision nr. 1397/2005 on the internal gas market opening;
- Government Decisions nr. 644/2005, 1823/2004, 1563/2003, 48/2002, 1272/2001, 122/2000 on increasing the electricity market opening;

- Government Decision nr. 867/2003 on Regulation of connection of users to the public electricity networks;
- Government Decision nr. 1007/2004 on the Rules of electricity supply to end users;
- Government Decisions nr. 24/2002, 1342/2001, 627/2000, 365/1998 for restructuring the electricity sector, etc.

Romania, as part of its commitments for the accession to the European Union, prepared a Road Map for the energy sector (2003 – 2015), that was adopted by the Government nr. 890/July 2003. This document is in the process of being up-dated. The Road Map foresees a balanced generation of electricity from hydrocarbons, coal, nuclear and hydro sources, in order to achieve security of supply from domestic sources as well as diversify sources for imported fuels.

Currently the Ministry of Economy and Trade prepares an Energy Policy Document (2005 – 2008). A draft discussion document is up on the Ministry of Economy and Trade website for public consultation.

Environment:

The Ministry of Environment and Water Management (www.mmediu.ro) is responsible for the adoption of primary and secondary legislation related to the adoption and implementation of the Environment Acquis. The National and the eight Regional Protection Agencies, as well as the Environment Guard are responsible for monitoring the implementation of the environment laws and regulation, and the companies' compliance with these. Romania has concluded the negotiations of Chapter 22 on Environment for the EU Accession and adopted all the primary legislation related to the Acquis. The Ministry of Environment and Water Management has under its coordination the National Environmental Protection Agency, with 8 Regional Protection Agencies, and the Environment Guard, as implementation and monitoring agencies for the legal framework and the policy.

Renewables and Energy Efficiency:

In 1991, Romania set up the Energy Conservation Agency (ARCE, www.arceonline.ro), as an independent body, under the coordination of the Ministry of Economy and Trade. The Agency is organised with a Headquarter in Bucharest and 16 territorial offices, and is staffed with approximately 60 people. ARCE is organised in three departments: Market and Surveillance, Programmes, Authorisation and a number of three services. ARCE's role is to:

- Implement the National Energy Efficiency Strategy and Action Plan;
- Promote and monitor implementation of energy efficiency investments through public funding programmes;
- Monitor the household appliances market;
- Promote renewable energy sources;
- Certify energy auditors and energy managers;
- Educate and raise awareness of public on the benefits of efficient use of energy;
- Train energy managers, designers, constructors, manufacturers, etc. on energy efficient technologies and practices.

1.2. Energy Regulators

Romania has adopted the model with three separate Regulators:

- Electricity (ANRE),
- Natural Gas (ANRGN)
- Public Services (ANRSC).

Electricity:

The Romanian Government started the effective restructuring of the power sector by passing the Government Emergency Ordinance nr. 63/1998. The Electricity Act – Law nr. 318/2003 provisioned for the set up of the Romanian Electricity and Heat Regulatory Authority (www.anre.ro), its tasks and competencies, as well as for the power sector restructuring, including:

- Regulated access to the electricity transmission and distribution networks
- Authorisation procedure for market participants
- Unbundling of generation, transmission and distribution/supply activities
- Principles of the electricity market and its gradual opening
- The main functions of the TSO, DSOs and the market operator
- Rights and obligations of the market participants
- Tariff principles,
- Promotion of renewable energy sources, other.

ANRE was set up in 1998, as an independent public institution. At present ANRE is under the Prime Minister's direct co-ordination; the Regulator's President and Vice-President are appointed by the Prime Minister for five years term, at the proposal of the Minister of Economy and Trade. The commissioners are appointed by the Minister of Economy and Trade. The president, vice president and the three commissioners form the Regulatory Committee. The Regulatory Committee is assisted by an Advisory Council, consisting of 9 members, appointed by order of the department minister. The role of the Advisory Council is to harmonise the interests of companies in the sector with those of consumers, to assess the impact that the regulations of ANRE have and to propose measures in order to enhance them.

ANRE's operation is financed by licenses and authorizations fees, and other charges paid by companies. The Electricity regulator is fully staffed with 108 people organized in three departments: Network access and authorisations; Prices and Tariffs and Energy Market. ANRE has the following main competencies and tasks, as defined by the Electricity Act: to grant, amend, suspend or withdraw authorisations and licenses for electricity sector companies; to issue and approve calculation methodologies to set tariffs and prices; to set tariffs for captive consumers; to set tariffs for electricity system, transmission and distribution services, prices and tariffs for activities and services associated to the production of heat through co-generation; to issue supply framework contracts and contracts operating among sector companies on the sale, purchase, transmission, system service and distribution of electricity as well as contracts for the sale of heat through co-generation; to issue the regulation for electricity supply to consumers, subject to governmental approval; set requirements, criteria and procedures for eligibility of electricity consumers and qualify

the eligible customers; to approve technical and commercial regulations for electricity sector's companies, others.

The main regulations that were issued by ANRE include:

- The Commercial Code for the Wholesale Electricity Market;
- Network Codes: the Grid Code (revised version) and the Distribution Code;
- Metering Codes;
- Technical and commercial regulations;
- Tariffs methodologies;
- Authorization and licenses procedures;
- Rules for connection to the networks;
- Performance standards, etc.

Natural Gas:

An independent regulatory authority has been established as the Romanian Regulatory Authority in Natural Gas Sector ANRGN (www.anrgn.ro). Its establishment is covered by the Gas Law no. 351/2004. The regulatory authority is independent and allows ANRGN to develop its activity based on own organization and function regulation, approved by internal Decision no. 134/August 24, 2004. A president and a vice president, appointed by the Prime Minister of Romania for a 5 years mandate, ensure the management of ANRGN. In order to obtain more fairness a Regulatory Committee is constituted, formed by 5 members – president, vice president and 3 members from ANRGN staff. The Regulatory Committee is assisted by an Advisory Council, consisting of 9 members, appointed by order of the department minister. The role of the Advisory Council is to harmonise the interests of companies in the sector with those of natural gas consumers, to assess the impact that the regulations of ANRGN have and to propose measures in order to enhance them. The most important competences of the regulatory authority are described in the part “3. Gas Sector” of this report.

1.3. Competition Authority

The Competition Council (www.competition.ro) was set up by the Competition Law No.21/1996, amended and completed by the Government Emergency Ordinance no. 121/2003. This is an independent body, whose board consists of 7 members: one president (with the rank of Minister), 2 vice-presidents (with the rank of Secretary of State) and 4 competition counsellors (with the rank of Deputy Secretary of State). The Council members are appointed by the President of Romania, pursuant the proposal of the Government.

The role of the Competition Council is two folded: corrective relating to its interventions to restore and maintain normal, competitive environments, and preventive related to its interventions that significantly prevent unfair competition on the market.

The Competition Council is organised based on its role, in two directions: Mergers and Antitrust, and State Aid. For enforcing the rules implementing the state aid provisions referred to in Art.64, par.1 (iii) and 2 from the European Association Agreement, it has been adopted the Law on State Aid No. 143/July 27, 1999. The Law entered into force in January 2000.

The Law on State Aid no. 143/1999 was amended and completed by the Law no. 603/2003 and the Government Ordinance no. 94/2004 on settlement of certain financial measures, in order to fully transpose and reflect the Acquis.

2. ELECTRICITY SECTOR

2.1. Introduction

Romania has undertaken a reform process in the electricity sector in a staged approach, starting with the Government Emergency Ordinance nr. 63/1998 and continued with the Electricity Act – Law nr.318/2003. Other restructuring decisions include: Government Decisions 365/1998, 627/2000, 1342/2001 and 1524/2002.

Market opening decisions were adopted through: Government Decisions nr. 122/2000; 1272/2001; 48/2002; 1563/2003; 1823/2004; 644/2005, and finally the Energy sector strategy (Road Map to 2015) was adopted by the Government Decision 890/2003.

The main steps of the reform were:

- Restructuring the sector by vertical unbundling of generation, transmission, distribution/supply activities and horizontal splitting of generation and retail supply;
- Introduction of competition through the wholesale market, the day ahead market and by allowing new entries in the generation and retail supply business;
- Adopting the regulatory framework and establishing the independent regulator – ANRE;
- Changing the ownership by privatizing the publicly owned businesses and allowing for new private market players.

The vertically integrated monopoly CONEL was split into the following:

Generation: 7 major thermal and combined heat and power generation companies, one hydro generation company (Hidroelectrica) with several hydro power plants, one nuclear generation company (Nuclearelectrica), 14 municipal cogeneration companies, IPPs and auto-producers.

Transmission and system operator: Transelectrica and **Market Operator:** OPCOM

Distribution and Supply: eight distribution and supply companies of which four are privately owned; 12 industrial platform distributors and 120 suppliers.

Key figures regarding the electricity sector are presented in Diagram 1¹.

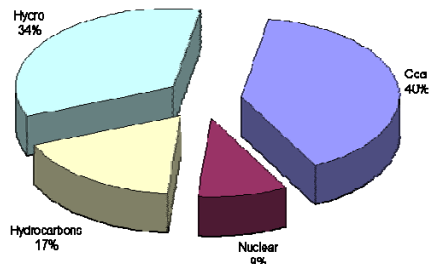
¹ Romanian Electricity Sector, Presentation by Mr. Nicolae Opris, President of ANRE, at the Black Sea Energy Conference, 3-5 April 2006



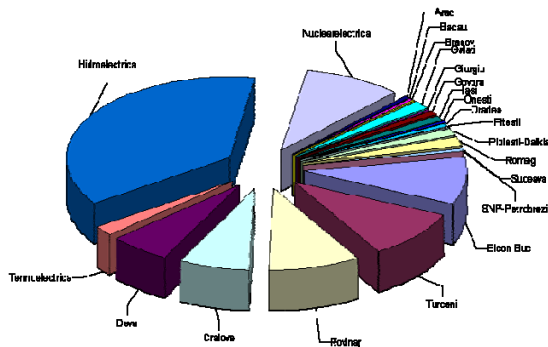
INSTALLED POWER GENERATION 18.3 GW

RESERVE MARGIN 2004 = 48,9 %
(Available capacity – Peak demand/Available capacity)

TYPE OF FUELS USED FOR ELECTRICITY GENERATION IN 2005



GENERATORS PARTICIPATION TO ELECTRICITY GENERATION IN 2005



Total overhead transmission lines – 9000 km
Substations – 78; Power transformers - 138

Total distribution lines – 310127 km
Substations – 1296

CONSUMERS - 8537422

2.2. Public service obligation and customers protection

- The Electricity Act 318/2003 contains provisions related to Public Service Obligations, on: supply of electricity, contracting obligations, limitation or interruption of supply, rights of the consumers, responsibilities of the supplier, etc.
- At present there are no legal provisions regarding the appointment of a supplier of last resort. Under the revised Electricity Law that is currently being debated in the Parliament, explicit provisions on the appointment of the supplier of last resort are made. In any case the deadline for implementation is the end of 2006.
- The legal provisions regarding vulnerable customers are reflected in the Government Decree 1007/2004, regarding the Regulation for electricity supply to consumers. In order to protect vulnerable customers, the Romanian Electricity and Heat Regulatory Authority (ANRE) introduced a social tariff. Beginning with 1st November 2005, the social tariff is granted only to captive consumers with a monthly average net income per family member lower or equal to the minimum wage per economy. The subsidy for the difference to the real supply cost is shared by all the other residential customers. In 2004, the subsidy represented 7.5% of the sales of electricity to residential consumers. Another form of social protection is that captive customers' tariffs are the same across the country, irrespective of the geographic position and cost of supply. Residential customers are offered progressive tariffs, based on consumption levels.

2.3. Monitoring of security of supply

- Electricity Security of Supply is covered in both the Electricity Act and in the Government Decree 1007/2004 regarding the Regulation for electricity supply to

consumers. The Grid Code (ANRE Order 20/2004 and 35/2004) also includes important provisions in the field, namely those related to the Operation of the System. ANRE Decision 34/1999 on Supply Performance Standards, as well as the Order 51/2005 on Annual reports by licensees have also provisions related to the Security of Supply. The main responsible institutions are the Ministry of Economy and Trade together with the Electricity Regulator. The TSO also plays an important role.

- The Ministry of Economy and Trade is responsible under the Electricity Law to prepare programmes for security of supply with fuels and monitor the implementation of these. The Establishment of monitoring mechanism within the Ministry of Economy and Trade was mentioned as a potential need for Technical Assistance.
- Safeguard measures are foreseen in the Electricity Act 318/2003, art. 34 and the institution responsible for the safeguard measures is the TSO – Transelectrica.

2.4. Technical rules

- The main approved technical rules are the Transmission Grid Code, the Distribution Grid Code which have been passed as ANRE Order, nr. 20/2004 and 35/2004, respectively as ANRE Order 101/2000.

2.5. Generation

- Activities related to building new generation capacity and retrofitting existing ones are subject to authorisation, foreseen in both the Electricity Act 318/2003 and the Government Decision 540/2004. Authorisations are granted by the electricity regulator ANRE; the criteria for granting a generation authorisation are also presented in the GD 540/2004. Commercial operation of generation companies is subject to licensing, which is also regulated by the GD 540/2004.
- The revised Electricity Law that is under debate in the Parliament also contains provisions related to tendering for new capacity in those cases when security of supply cannot be guaranteed. Up to present, Romania had an overcapacity in power generation.

2.6. Unbundling provisions and access to accounts

Transmission System Operators

- The tasks of the Transmission System Operator are defined in Art. 32, 33 and 34 of the Electricity Act 318/2003, in the Government Decision 627/2000 regarding the re-organization of the National Power Company, as well as in the Licence nr. 161/2000 granted by the Electricity regulator. Relevant secondary legislation further developing its functions comprises the transmission grid code and the electricity market rules.
- Transelectrica SA's main functions are: Transmission and System Operator for the Romanian Power System; Balancing market Operator; Commercial Operator of the electricity market, through its subsidiary OPCOM and Metering Operator in the wholesale market, through its subsidiary OMEPA. Transelectrica SA is a member of UCTE, ETSO and SETSO TF.
- The Romanian TSO has fully unbundled its network activities from generation and supply activities, through the provisions of the GD 627/2000, as well as the Licence 161/2000. Transelectrica SA does not have the right to trade electricity, the only

permitted transaction being the purchase of electricity for covering losses in the transport network.

- The Wholesale Market Commercial Code, approved by ANRE Orders 25/2004 foresees the following functions for the TSO: to operate the balancing market (rules provided by ANRE Orders 20/2004 and 35/2004 – the Technical Grid Code, and 25/2004); to purchase ancillary services on market based procedures; to allocate interconnection capacities on market – based procedures, to award green certificates to green energy producers. In accordance with the provisions of ANRE Orders 20/2004 the TSO is requested to publish rules for dispatching of generation capacities. ANRE has access to the TSO accounts and approved the tariffs for regulated tariffs.

Distribution System Operators

- The key tasks of the distribution network operators are outlined in the Electricity Act 318/2003 (Art. 37 and 38), the Government Decision 627/2000 as well as in the Distribution Licences released by ANRE to each of the distribution and supply companies. Romania has eight distribution companies of which four are already in private ownership and the fifth will be privatised by the end of 2006. These are also supplying electricity to captive consumers. Romania still has to unbundle distribution from supply and billing activities. Therefore there is no combined operator. The unbundling of network from retail activities is foreseen in the amended version of the Electricity Act that is up for debate in the Parliament.

Access and unbundling of the accounts

- There are several entities that are entitled to access the accounts of the electricity undertakings as stated in the Electricity Act; these are the Electricity Regulator, the Fiscal National Authority, the Ministry of Public Finances and the National Audit Office.
- The electricity undertakings must submit annual reports to the Electricity Regulator their annual reports, according to their Licences. For the purpose of price regulation, the Regulator is entitled to request any accounting, technical or economical information from the companies.

2.7. Third party access

- Under the Electricity Act, transmission and distribution companies shall allow producers, retailers and eligible customers, non-discriminatory access to their networks. The rules for access to public networks were approved by the Government Decision 867/2003, and are also foreseen in each transmission and distribution license, released by ANRE. Both the Electricity Act and the rules above mentioned makes mandatory to the transmission/ distribution company to motivate any refusal based on technical grounds.
- Both the methodology and the tariffs for connection to the network are approved by the regulator and are publicly available on its website (ANRE Orders 29/2003 and 15/2004); the methodology used for transmission tariffs is **revenue cap** with a regulatory period of 5 years, except for the first period that is for 3 years, and an efficiency increase of 1 % applied to OPEX; the distribution tariffs are calculated using the **price cap** (price basket) ceiling, with a regulatory period of 5 years, except for the first period that is for 3 years, and an efficiency increase of 1 % applied to OPEX.

2.8. Market opening

- Romania has designed its electricity national market in accordance with European Union model. The Romanian Wholesale Electricity Market (REM) is structured as a competitive market and a regulated market. A new trading platform was implemented in July 2005, with Technical assistance from EC PHARE Programme and the World Bank.
- The purpose of the new trading platform is the introduction of an electricity market fully liberalized and competitive. The main objective of the “Road Map” was to achieve in 2007 a market based on bilateral contract for generators, accompanied by a voluntary electricity exchange (Day-Ahead Market) and a balancing market. This objective was implemented in advance, since 1st of July 2005. Starting with 1st of July 2005 the degree of the opening of the market was raised to 83.5 %, meaning that all non-households consumers can choose their supplier. The rest of the market opening is scheduled for 1st July 2007.
- **Bilateral contracts:** The market model is based on bilateral contracts between generators and suppliers, contracts that can be negotiated or regulated.
- **Regulated contracts:** The regulated contracts are concluded between generators and suppliers of the captive consumers.
- **The day-ahead market:** Besides contracts, participants to the wholesale electricity market have the possibility to participate to a physical electricity market organized one day before the delivery date. This market is administered by OPCOM (the market operator). The participation on this market is voluntary, and it is based on simple price - quantity bids for each hourly trading interval of the next day. Market trades are concluded at the market clearing price. Any congestion of the interconnection lines will be finally managed through the market splitting.
- The market operator OPCOM administers also a centralized market for bilateral contacts, since December 2005 and the Green Certificates Market, since November 2005. Transelectrica, the Romanian TSO operates the balancing market.
- **Priority production:** The Commercial Code adopted in 2004, contains provisions through which certain generators are qualified for priority production; these can be contracted or offered on the day-ahead market using the lowest range of allowed price scale. The mechanism shall be used to promote energy renewable sources as well as co-generation.
- **Scheduling:** After closing the day-ahead market, each participant notifies to the system operator his generation/consumption schedule for each dispatchable unit/load, whole generation, consumption, exports, imports, and net trades with other participants for each dispatchable interval of the next day. In accordance with the European practices, the Commercial Code stipulates the existence of Balancing Responsible Parties.
- **Introduction of the capacity payment mechanism:** The Road Map provides the introduction of a capacity mechanism, which remunerates the generators for offering into the market the needed generating capacity.
- **The power exchange:** OPCOM – the Romanian Electricity Market Operator has become since 2005 a power exchange for the physical market. Previously, a spot market was operated by OPCOM since 2000. A financial market is also under development with Technical assistance and is expected to be operational in 2007.

- Romania supports the establishment of a regional power exchange, considering that a regional day-ahead market would likely perform better than a set of national markets in SEE, particularly given the small size of some countries involved. The platform implemented in Romania is designed for a regional participation, and is open for any developments required by market participants.
- **Implementation of Green Certificates:** To promote generation based on renewable sources, starting with 2005, Romania introduced a new mechanism according to which the suppliers are committed to purchase a number of green certificates equal to a quota imposed by the Government multiplied with the quantity of electricity they supply to the final consumers (whatever are the sources of energy used to produce this electricity). There is a mandatory quota from renewable energies by supplier. Green certificates are awarded to the producers of electricity from renewable energy sources qualified by ANRE to participate in the supporting system, for each MWh delivered by them into the network. Green certificates are priced based on the market mechanisms: either bilateral contracts concluded between producers and suppliers or centralized market operated by Romanian Electricity Market Operator, OPCOM.

2.9. Direct lines

- The Article 28. (4) of the Electricity Law nr. 318/2003 stipulates that the construction of direct electricity lines and the access thereto shall be regulated by the competent authority.

2.10. Cross border trade mechanism

- Transelectrica has been participating in the SETSO ITC mechanism based on provisions of Memorandum of Understanding on the Regional Electricity Market in SEE and its integration into the EU internal Electricity Market. – The Athens Memorandum 2002. ANRE Order 56/2005 approves the application of the last version of SETSO ITC mechanism.
- Transelectrica is also participating in the Dry run project for capacity allocation and congestion management. The transmission, system and market administration services for imported/exported energy are provided on contractual basis; the tariffs applied at the interconnectors are in line with the SETSO CBT mechanism.
- Romania has concluded agreements with neighbouring TSOs from Hungary, Bulgaria, Serbia and Montenegro on NTC and ATC evaluation and convening, with 50:50 sharing of allocation responsibility in each direction; but not yet with Moldova and Ukraine. The allocation of capacity is done through monthly or yearly explicit auctions, as provided by ANRE Order 30/2005. The information on available transmission capacity is published on the website. Pre-allocated AAC related to old contracts will be removed starting 1 July 2006, based on a Government Decree to be issued.
- There are specific penalties provisioned in the Electricity Law for breaching the Regulation 1228/2003.

3. GAS SECTOR

Romania is a major natural gas producer and natural gas consumer in South East Europe. Although Romania does hold considerable proved gas reserves, these resources are not significant on a world scale in the long term.

To fulfil the requirements stated in the Treaty establishing the Energy Community, almost all requirements of the Directive 2003/55/EC have been fulfilled already (exceptions see below listed).

This process is ongoing and it is foreseen to finish with the process at the end of 2006.

In order to continue with the almost finished process, those provisions of the Directive 2003/55/EC, which have to be prepared, in particular the regulations of legal and functional unbundling, taking the experience of EU-MS partially into account, were discussed.

3.1. Public service obligation and customer protection

- Vulnerable customers are being protected by being directly subsidised and there is also an implicit protection because of the very low price of domestic gas which is being mixed (significant percentage of around 60%) into the total commodity price (every supplier has virtually the same ratio of domestic production to import). Discussions regarding supplier of last resort are ongoing; the finalisation of this process is foreseen for the end of 2006.

3.2. Monitoring of security of supply

- The regulatory authority is in power of security of supply (SoS) issues. For the long term planning of the gas grid provisions are being prepared by the regulatory authority.

3.3. Technical rules

- The regulatory authority elaborates and approves technical regulations and norms at national level which establish the technical security criteria, the minimum technical design, execution and exploitation requirements necessary for an efficient and secure function of the facilities in the natural gas sector.

3.4. Unbundling provisions and access to accounts

- Currently the accounting unbundling for TSO and DSO is in place; the provisions for the legal and functional unbundling are being prepared; accomplishment /implementation is foreseen for the beginning of 2007. The regulatory authority has an access to the regarding accounts.

3.5. Third party access

- Third party access to upstream lines, storage facilities, transmission systems, and distribution systems of natural gas is accomplished under regulated regime. Available capacity is allocated by applying the First Come First Serve principle. The principle „capacity goes with the customer“ is being used when switching the supplier in order to support an easy supplier switching process.

3.6. New infrastructure and exemptions

- An exemption mechanism for new natural gas infrastructure is in place and the regulatory authority is in power of granting the exemption.

- The Guidelines for New Gas Infrastructure Investment Regulation will be taken into account.

3.7. Balancing regime

- The physical balancing is being handled by the TSO on a cost reflective basis but the costs for balancing energy are being socialised among the customers in the sense that there is no correct mechanism for balancing energy costs allocation in force. The reason for doing so is that the proper allocation of balancing energy cost would entail large investments in metering, transmitting and steering devices and that the benefit of correct balancing energy costs allocation is lower than the expected costs of the required devices at the moment.

3.8. Grid/Storage tariffs

- Tariffs for the transmission system are cost reflective. The postage stamp method is being applied. Tariffs are set ex ante by a „revenue-cap“ type methodology; period 3-5 years, started 2005. Within the period annual adjustments are accomplished, according to the inflation index and efficiency factor. Assets are owned by the state. Leasing fee has to be paid by the TSO for the assets.
- Tariffs for the distribution system are set by a „price-cap“ type methodology; period 3-5 years, started 2005. Within period annual adjustments are accomplished, according to inflation index and efficiency factor. In case assets are in third party property than only OPEX are being taken into account for the tariff calculation. If leasing fees have to be paid for, these costs are being taken into account. In case an auction was used to sell a distribution system, the auction costs are being regarded as set up costs and being taken into account for tariff calculation.
- Tariffs for the use of underground storages are set by a „revenue-cap“ type methodology, period 3-5 years; started 2005. Within period annual adjustments are accomplished, according to inflation index and efficiency factor

3.9. Market opening

- As of 1 January 2006 the degree is 65%. Next steps: 75% as of 1 July of 2006, 100% for all non household customers as of 1 January 2007, and 100% for all customers as of 1 July 2007.
- Gas release programs in order to improve liquidity and subsequently competition on the gas market are not yet in place.

3.10. Cross border trade mechanism

- In Romania there are no pipelines in which transmission for the domestic needs and transit takes place; pipelines for transit are separated from pipelines which are used for transmission within Romania. Transit by these dedicated lines is submitted to the regime established by international agreements according to which they were constructed.

4. COMPETITION

Romania has closed the negotiations with the EU on December 8, 2004, including Chapter 6 on Competition. Regarding the Acquis on competition, national legislation includes provisions related to prevention, restriction or distortion of competition. Agreements between

undertakings, decisions by associations of undertakings and concerted practices which may affect trade between states are prohibited in particular those (art. 5 of the Competition Law 21/1996) which:

- directly or indirectly fix purchase or selling prices or any other trading conditions,
- limit or control production markets technical development,
- share markets or sources of supply.

Moreover, national legislation includes provisions prohibiting any abuse by one or more undertakings of a dominant position within the market in particular consisting in (art. 6 of the Competition law 21/1996):

- directly or indirectly imposing unfair purchase or selling prices or any other trading conditions,
- limiting production, markets or technical development to the prejudice of customers,
- applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage.

Furthermore, national legislation prohibit for any public aid granted by the State which distorts competition by favouring certain undertakings (law no. 143/1999, Art. 2 (1)).

There are no direct nor cross subsidies for electricity or gas (law no. 143/1996 Art. 2 alin. 2). There is no state aid in electricity or gas (law no. 143/1996 Art. 2 alin. 2). The two Regulatory Authorities (ANRE and ANRGN) work together with the Romanian Competition Council, on competition issues related to energy on the basis of a formally signed agreement. So far, only one case has been filed in 2004 related to one in gas distribution and supply and refers to the behaviour of one of the largest gas distributor - SC Distrigaz Sud SA (which is controlled by Gaz de France since 2004), and the second refers to a possible abuse of a dominant position of the main gas producer – SNGN Romgaz SA, state owned, on the producing and commercialization for suppliers and eligible consumers markets. Currently there are other two investigations being performed related to possible abuses of dominant positions: one in gas distribution and supply, and the second in a possible consolidation of a gas distribution company with and electricity generation company. Investigations are either results of a complaint or ex-officio. No case was reported in the electricity sector.

The Competition Council intends to organize in May 2006, jointly with the two energy regulators a series of training seminars for consumers on regulations and their rights. The Competition Council has been strengthened through the PHARE “Twinning programme “Further development of competition authorities’ capacity to implement the competition and state aid Acquis to EU standards of application” 2003-2005.

5. ENVIRONMENT

Romania ratified the UN Framework Convention on Climate Change in 1994 and the Kyoto Protocol to the UNFCCC in 2001. In 2005, Romania adopted the National Strategy on Climate Change and the National Action Plan on Climate Change, as well as sent the 3rd National Communication on Climate Change to the UNFCCC Secretariat.

Romania has an excess of carbon credits of approx. 50 million tons per year, equivalent of CO₂, for the first commitment period and has adopted a National Climate Change Strategy and Action Plan, created a Directorate for Climate Change in the Ministry of Environment and Water Management and is planning to harvest the carbon credits.

The National Environmental Fund is operational and lends soft money to companies and municipalities for environmental projects, included in the area of climate change.

Key primary environmental Acquis legislation related to the Energy Community Treaty was transposed into the Romanian legislation as follows:

- The EC Directive on the limitation of emissions of certain pollutants into the air from large combustion plants was also adopted by the Government Decisions nr. 541/2003, 322/2005 and Minister's Orders: 347/2004, 712/2003 and 1052/2003; 174 large combustion plants were found that need to be made compliant with the EU standards and the transitory period is till 2017. Romania has adopted by Ministerial Order, the "National Programme for the Reduction of SO₂ emissions, NO_x emissions and particles from large combustion installations".
- The EC Directives 1999/32/EC and 2001/80/EC regarding the maximum sulphur content in fuels for combustion power plants were transposed in the Romanian legislation by the following laws: Government Decisions 541/2003 and 322/2005 as well as the Minister's Orders: 347/2004, 712/2003 and 1052/2003, as well as the Government Decision nr. 142/2003, revised and completed by Government Decision 598/2004, by which the maximum content of sulphur is limited to 1 % starting with 1 January 2007.
- EC Directives 2003/35/EC, 85/337/EC and 96/61/EC on public consultations in respect of drawing plans and programmes related to the environment, were transposed through the Emergency Government Ordinance nr. 152/2005 to replace Emergency Government Ordinance nr 34/2002, and Emergency Government Ordinance nr. 195/2005 on Environmental Protection, that replaces Law 137/2005.
- Directive 79/409/EC was adopted through the Law 5/1991 related to the UN Convention on Wetlands, as well as the Environment Minister's Order nr. 1198/2005 that modifies and completes annexes II and III to the Law 662/2001.

6. ENERGY EFFICIENCY AND RENEWABLE ENERGY

In 1991, Romania set up the Energy Conservation Agency (ARCE), as an independent body, under the coordination of the Ministry of Economy and Trade, as early as 1991. ARCE is the policy implementation arm of the Ministry and has promoted the following primary legislation, related to energy efficiency and renewable energy sources:

- The Energy Efficiency in Buildings Act – adopted by Law nr. 372/2005,
- Energy Efficiency Act – adopted by Law nr. 199/2000, modified and completed by Law 56/2006,
- Government Decision nr. 443/2003 on promotion of electricity supply from renewable energy sources.

The National Energy Efficiency Strategy was adopted in 2004 and is implemented by the Energy Conservation Agency; The Strategy set a target of 40 % reduction of energy intensity by 2025. A new law, nr. 56 was passed in March 2006, to reflect better the EU requirements. Most EU directives regarding the energy labelling of household appliances are adopted.

ARCE managed a significant number of projects and programmes with both public funds and also from EU Phare, bilateral donors, UNDP and other technical assistance, in the area

of energy efficiency in schools, hospitals, collective apartment buildings, energy management and promotion of energy efficient technologies in large industrial facilities.

Several relevant energy efficiency programmes were initiated or launched in 2006:

- Rehabilitation of district heating and promotion of renewable energy sources for urban heating – 15 million Euro in 2006, from public budget allocations are available for up to 30 % grants to municipal projects; ARCE prepares the list of eligible projects and the Ministry of Economy and Trade approves it. The Ministry of Administration and Interior could also contribute to the project financing from the funds made available by reducing heat subsidies;
- National programme for thermal rehabilitation of residential buildings: a grant of 33 % of the project cost is made available by the Ministry of Transportation, Constructions and Housing to Building Owners Associations; the rest of financing is expected to be shared by the city council and the association, itself;
- Co-Generation 2006 -2009 – a programme to rehabilitate cogeneration units for district heating and also residential buildings, under the coordination of the Ministry of Interior and Administration;
- EBRD Credit line of 50 million Euros for energy efficiency and renewable energy sources – under advanced preparation. To match these funds, the Romanian Government will contribute with 10 Million Euro to soften the terms of EBRD loans (7 % non repayable for efficiency projects and 20 % for renewable energy sources).

Romania has an important renewable energy potential, that is only partly used and mainly from hydro sources. In order to promote the development of renewable energy sources, other than large hydro power plants, the Government of Romania adopted a Renewable Energy Strategy by Government Decision nr. 1535/2004, in which sets the target of 33% power generated/used from renewable energy sources, including large hydro power plants; this will represent 11 % share of renewable sources in total primary energy resources, by 2010.

Romania has promoted the use of renewable energy sources for electricity generation a plan for the implementation of the Directive 2001/77/EC for the timeframe 2005 - 2010, that was adopted through the Government Decision 443/2003.

As a consequence, the Romanian Electricity and Heat Regulator (ANRE) promoted a number of regulations and legal acts to promote incentives for renewable energy sources, including:

- Government Decree 1249/2004 on Guaranty of origin of electricity produced from renewable energy sources;
- Government Decrees 1892/2004 and 958/2005 on Promotion of energy generation from renewable energy sources;
- ANRE's Order 40/2005 on the Organization and functions of Green Certificates market;
- Other orders and regulations.

Romania has introduced mandatory quotas (0.7 % in 2005, 2.22%in 2006, 3.74% in 2007, 5.26 % in 2008, etc.) of electricity supplied from renewable sources for each supplier and developed a Centralised Market of green certificates operated by OPCOM, since November 2005. Green certificates can also be traded on a bilaterally between companies. Between November 2005 and February 2006, were issued to the producers 7183 Green Certificates

for 2005 electricity produced from renewable energy sources eligible to participate in this system. On the centralized green certificates market were traded between November 2005 and February 2006 (for 2005 year quota) 7241 Green Certificates. In order to prevent excessive prices for green certificates as there are still a small number of generators that received green certificates, a Government Decision 958/2005 was passed to introduce ceiling prices of minimum 24 Euro/MWh and of maximum 42 Euro/MWh. The time period for granting licenses to the green producers is shorter than for the other producers and the grid operators are obliged to ensure the transmission/distribution of green electricity.

7. ENERGY INFRASTRUCTURE PROJECTS

Under the Road map, Romania has prepared two scenarios for macroeconomic and energy indicators for the period 2004 – 2015. Under the Base scenario, the gross electricity production in 2015 will be 72.9 TWh, while under the alternative scenario it will be 73.4 TWh.

In order to meet any of these targets, Romania needs to invest in new generation capacities, as well as in the rehabilitation of existing ones, and the transmission lines.

The projects proposed by Romania that are important for the regional energy market include:

Electricity:

- Construction of a 400kV transmission line between Romania (Timisoara) and Serbia& Montenegro (Vrsac). A Memorandum of Understanding was signed between Transelectrica of Romania and Elektromreza Srbije regarding the proposed project. Estimated starting date for the project: October 2007.
- Construction of a 400kV transmission line between Romania (Oradea) and Hungary (Beckescsaba). The project is estimated at 12 million Euro and will be financed through EBRD syndicated loans and companies' own resources. Estimated starting date for the project: July 2006.
- Construction of a 400kV interconnection substation in Nadab, for Oradea – Bekescsaba transmission line. The project value is of approx. 9 million Euro and is financed by EBRD syndicated loans and companies' own resources. Estimated starting date for the project: July 2006.
- Construction of a 400kV transmission line between Romania (Suceava) and Moldova (Balti). The project is financed by the World Bank and has a total value of 32.5 million Euro (18 million Euro for the Romanian line and 14.5 million Euro for the Moldavian one). Estimated starting date: 2007.
- Construction of a 400kV transmission line between Romania (Suceava) and Romania - Cluj (Gadalin). The project is financed by the World Bank and has a total value of 43 million Euro. Estimated starting date: 2007.
- Development of a transaction platform for regional trade by the Romanian Power Exchange Company; this is under contracting. It will serve to the creation of a regional Power Exchange managed by the Romanian Market Operator.
- Completion of Unit 2 – 700 MWe of Cernavoda Nuclear Power Plant ; the estimated value of the project is 1.4 billion Euro and the commission is scheduled for the second half of 2007. The project is also listed in GIS study.

- Construction of Units 3 and 4 of Cernavoda Nuclear Powerplant of 720 MWe installed capacity each; the project value is estimated at 2 billion Euro. The tentative completion date is May 2014.
- Construction of a Hydropower Pumping Station of 1000 MW at Tarnita – Lapustesti; estimated project cost is of approx. 700 million Euro and estimated completion year is 2014.

Gas:

- Construction of Nabucco gas pipeline (Turkey – Bulgaria-Romania-Hungary-Austria) of approx. 3200 km lengths; the total estimated cost is 4.6 bn Euro. The Feasibility study for the project was approved and the project is in the development phase. This is a project of true regional character that will contribute to the development of the regional gas market.
- Construction of the gas interconnection pipeline Romania (Arad) – Hungary (Szeged) of 62 km lengths and Dn 700 cm. Stage 1 for construction of the 37 km is completed and Stage 2 of 25 km is under execution. The total value of the project is 11.3 million Euro; the construction of this gas transit pipeline will contribute to the development of the regional gas market and reduce Romania's dependency on one single gas import source.
- Construction of the gas interconnection pipeline Romania (Siret) – Ukraine (Cernauti) as well as of the Metering and Regulation station for gas offtake. The project value is of 8.2 million Euro and the expected start up date is May 2006. This project will increase the security of gas supply and efficient use of gas through gas flows optimization for the consumers in that region.
- Construction of the gas interconnection pipeline Romania (Giurgiu) – Bulgaria (Ruse). The estimated value of the investment is 6 million Euro and the start date, 2007.

Oil:

- Construction of a Pan European Oil Pipeline from Romania (Constanta) to Italy (Trieste), via Serbia, Montenegro and Croatia. The project is only in a proposal phase.

8. CONCLUSIONS

Romania concluded the negotiations for the EU integration and signed the Integration Treaty in April 2005. This means that the primary legislation to transpose the Acquis was adopted and a timetable for implementation was prepared. The national legislation that was adopted including the following directives and regulations relevant for the Treaty on the Energy Community:

Electricity Acquis: Electricity Directive 2003/54/EC, the EC Regulation no. 1228/2003, Directive 2001/77/EC

Gas Acquis: Natural Gas Directive 2003/55/EC

Environment Acquis: Directives 2003/35/EC, 85/337/EEC and 96/61/EC, Directives 1999/32/EC and 2001/80/EC, as well as the Directive 79/409/EEC;

Competition Acquis on State aid, and abuse of a dominant position on the market, prevention, restriction and distortion of competition.

The national laws that transposed the Acquis were drafted to fully reflect the provisions of the Acquis; in cases where laws were adopted at an early stage, before some of the EC Directives were released, the national laws are being amended to include the provisions of the Acquis.

In Electricity, there are only a few primary and secondary legislation acts, relevant to the Energy Community Treaty that is not yet adopted, or needs to be updated, and for which there is a timetable for adoption:

These are:

- Adoption of a new electricity law, which will transpose all requirements of Directive 2003/54 into the national legislation – expected in 2006;
- Transposition of the EC Directive 2004/8 on the promotion of cogeneration based on a useful heat demand in the internal energy market, into the national legislation - expected in 2006;
- Adoption of the procedure to designate the supplier of last resort – expected in 2006;
- Revision of Performance standards for electricity distribution and supply – expected in 2007;
- Adoption of the procedure regarding the introduction of a capacity market - expected in 2007;
- Legal unbundling of distribution and supply of electricity in distribution companies - expected in 2007.

The institutions are set up as independent, legal entities and are properly staffed and trained.

In Natural gas sector:

The Legal framework (primary and secondary legislation) has been established almost completely in accordance with Directive 2003/55/EC. As of 1 January 2006 the natural gas market is opened at a degree of 65% and will be opened for all customers at 1st July 2007, thus much earlier than required by the Treaty establishing the Energy Community

The regulatory authority is independent, sufficiently resourced, having operational autonomy but also democratic accountability and capable of dealing with concrete problems.

The below stated requirements of the Treaty establishing the Energy Community have not been fulfilled yet but are foreseen to be completed and implemented in due time:

- Legal and functional unbundling provisions have not been prepared yet but the elaboration of these rules is underway.
- The criteria describing in particular diversity of supply, technological security and the geographic origin of imported fuels have not been defined completely yet since guidance and assistance from the Secretariat had not been provided so far. The guidelines are needed in order to harmonise the security of supply statements as much as it makes sense.
- Additionally it has not been defined yet which authority shall approve the single mechanism for the cross border transmission and/or transportation of Network Energy.

- In case the implementation of the Guidelines for New Gas Infrastructure Investment Regulation (GGIIR) should be decided on by the Ministerial Council (measure taken by the Ministerial Council) and if the GGIIR have an impact on the legal framework, an amendment could be necessary.
- In case the implementation of the Regulation 1775/2005 on conditions for access to the natural gas transmission network should be decided on, either because of becoming a Member State of the European Union or because of a decision in accordance with the Treaty establishing the Energy Community the legal framework will have to be amended.
- Not defined yet which authority shall approve the single mechanism for the cross border transmission and/or transportation of Network Energy.

In Renewable energy:

The Renewable Energy Strategy, with a clear target for electricity from renewable energy sources of 33 % by 2010, the green certificates increasing quota and the market for trading these, are expected to promote the use of renewable energy in the coming years. The legal and institutional framework is in place.

In Environment:

The legal and institutional framework is in place and in line with the Acquis. Compliance plans for certain directives were prepared by the Ministry of Environment and Water Management and the transitory periods were negotiated with the European Commission and are currently being implemented and monitored by the competent authorities.

In Competition:

The Competition Law no. 21/1996 was amended and republished in 2005 to fully reflect the provisions of the Acquis. The institutional framework is in place and cooperates closely with the two regulatory agencies for electricity and gas, to prevent any abuse of power by energy companies and other market players.