

## Offshore wind energy law – a new wind into the sails of the Romania's energy policy



Following prolonged discussions and several legislative initiatives in the field of offshore wind energy, on 8 May 2024, *Law no. 121/2024 on offshore wind energy* (“Law 121/2024” or the “Law”) was published in Part I of Official Gazette of Romania No. 421, which will enter into force 30 days after its publication. The below provides a brief presentation of the main aspects set forth under the provisions of the Law 121/2024.

### 1. [Subject matter of the Law](#)

The Law regulates the general framework in view of implementation of offshore wind energy projects in Romania. In this context, the Law aims at ensuring the transparency of the whole implementation process of offshore wind projects under conditions of fair competition, non-discrimination and observance of the principle of integrated pollution prevention and control using best available techniques for activities with significant environmental impact.

The Law regulates, amongst others, (i) the powers of the competent authorities and institutions, (ii) establishment of perimeters subject to concession, (iii) certain conditions for the concessioning of perimeters, (iv) aspects concerning the exploration, construction and exploitation of offshore wind power plants (“OWEP”), (v) conditions for obtaining necessary authorisations, approvals and licences, (vi) aspects concerning connection to the electricity transmission grid, (vii) aspects concerning decommissioning of the OWEPs, (viii) security of offshore wind energy exploitation, (ix) general aspects regarding applicable royalties and fees, and (x) contraventions and penalties.

Nevertheless, multiple regulations are needed to be further issued for the purpose of meeting the Law’s objectives.

### 2. [Competent authorities](#)

The Law regulates the powers of several authorities, institutions and entities in relation to offshore wind projects, including the Ministry of Energy, the Competent Authority for the Regulation of Offshore Operations in the Black Sea (through the reorganisation of the Competent Authority for the Regulation of Offshore Oil Operations in the Black Sea - ACROPO), the National Energy Regulatory Authority (ANRE), the Transmission and System Operator (Transelectrica), the Maritime Spatial Planning Committee of the Ministry of Development, Public

Works and Administration, etc.

The following are some of the powers of the main authorities/institutions/entities involved:

- the **Ministry of Energy** has, among other things, the responsibility for determining the offshore perimeters available for concession, organizing competitive procedures for awarding concession contracts, and concluding these contracts, preparation of the state aid scheme for the construction or exploitation of OWEP, etc.
- **Competent Authority for the Regulation of Offshore Operations in the Black Sea** has powers and competencies such as: issuing approvals for the development and decommissioning of OWEP, monitoring compliance with rules and instructions by the concessionaire, monitoring the application of measures to protect the marine environment during the construction and operation of the OWEP, finding and sanctioning unauthorized activities, as well as issuing binding rules and instructions on operational safety.
- **ANRE** is responsible for issuing the regulatory framework regarding the set-up permits and production licences, as well as the regulatory framework concerning the grid connection, considering the OWEP peculiarities and for actually issuing such permits and licences.
- The **TSO** is responsible for issuing technical connection endorsements, concluding connection agreements and issuing connection certificates.

### 3. [Concessioning of offshore wind perimeters](#)

The Ministry of Energy will organise a competitive tendering procedure for concession agreements and will also be able to grant state aid in the form of a support scheme for the construction or exploitation of OWEP, subject to their commissioning within a maximum period of 8 years from the date of conclusion of the concession agreement. However, economic operators may participate in the competitive procedure even without the support scheme. The concession is granted for the exploration of the offshore wind perimeter, the construction works of the OWEP and its exploitation.

In order to participate in the competitive procedure for the award of the concession, the applicant (Romanian or foreign legal entity) **must meet a number of eligibility conditions**. For example, the applicant must have legal personality and be legally founded under the specific legislation of the state whose nationality it holds. Also, in the case of foreign legal entities, they are required to have established, at the date of submission of the bid, a subsidiary in Romania, which must be the holder of the rights and obligations arising from the concession agreement.

Other eligibility conditions relate to the applicant (i) not being in default or insolvency, (ii) not being in liquidation and its activities must not be in judicial administration, (iii) not being subject of a composition with creditors, an ad-hoc mandate or any other arrangement with creditors and must not have suspended business activities, (iii) must have fulfilled to date its obligations to pay taxes, duties, and social security contributions in Romania or in the country in which it has registered office. Applicants will also have to meet the qualification and selection criteria set out in the concession announcement.

Following the competitive procedure, the Ministry of Energy and the selected concessionaire will conclude a **concession agreement** for a period of up to 30 years, with the possibility of a one-time extension of up to 10 years.

The concessionaire has the **right to assign all, or part of the rights and obligations** acquired under the concession agreement, with the prior approval of the Ministry of Energy, to another legal entity that meets the conditions set out in the Law. In this case, the assignee and the assignor shall be **jointly** liable to the Ministry of Energy for obligations due prior to the assignment.

The concessionaire shall provide a **financial guarantee for the proper execution of the agreement**, including in the case of decommissioning projects, and for the repair of environmental damage. The concessionaire is also obliged to conclude **an insurance contract** in respect of the constructions built on the offshore wind perimeter.

#### 4. [Exploration activity of the offshore wind perimeter](#)

During the concession period, concessionaires have the right to explore the offshore wind perimeter for a maximum of **2 years from the time of signing the concession agreement**, with the right to **extend for a maximum of 6 months** for justified reasons and with the consent of the Ministry of Energy.

The exploration permit is granted to the concessionaire by the Ministry of Energy after the conclusion of the concession agreement.

#### 5. [Construction and operation of the offshore wind power plant](#)

The Law provides for the need to obtain a **set-up permit** for the energy capacity, which is granted by ANRE, and then the works are carried out based on the **development approval** issued by ACROPO, which also authorizes the construction works related to the OWEP project carried out on land up to the connection point. For works carried out on land, the urbanism certificate is issued by the county council in whose territorial jurisdiction the lands upon which the works are carried out are located.

The set-up permit and development approval entitle the holder to construct the OWEP on the concession perimeter and to carry out works for connection to the electricity transmission grid at points agreed with the TSO.

Within a maximum of 12 months from the time the development approval is issued, the concessionaire is **obliged to start construction works**, and from the date of commencement of the works, the **development approval is valid for a maximum of 5 years**.

After the acceptance of the works and the trial period, ANRE issues the **electricity production license**, according to its own regulations.

#### 6. [Connection to the electricity transmission grid](#)

The terms and conditions for connection to the grid are set out in the technical connection endorsement issued by the TSO.

The OWEP developer shall develop, **at its own expense**, the internal network of the OWEP, the conversion, transformer, and connection stations, as well as the cables or lines for the transmission of direct current between the conversion stations, as appropriate, up to the point of connection to the electricity transmission grid, which may be offshore or onshore.

The OWEP developer is also responsible for the operation of the installations up to the point of connection to the electricity transmission grid.

If the concessionaire fails to construct and connect the OWEP to the grid in accordance with the licenses/authorizations granted, it shall be **held liable for damages suffered by the TSO** as a result of its actions (unless it proves that the delays were not its fault).

During the exploitation period, the TSO may request **temporary limitation or temporary shutdown of electricity production** for technical reasons, as well as at the request of the Ministry of Energy or institutions responsible for defence, public order, or national security for justified reasons.

## 7. [Limitations on private property rights](#)

The Law provides for the possibility of imposing, for the benefit of concessionaires, **limitations on the ownership right to land and property owned privately by the State or by other natural or legal persons** for the entire duration of the operations for the construction or exploitation of OWEP.

The Law regulates the types of ownership restrictions, which are of a legal nature and are exercised **without registration in the land registry**, for the entire duration of the existence of the OWEP or, temporarily, on the occasion of the refurbishment of a capacity in operation, repair, overhaul, intervention works in case of damage.

These limitations extend to the time needed to carry out the construction and operation of the OWEP. Any such situation must be notified immediately to the holder of the ownership right.

Such limitations shall also be exercised subject to the prior payment of **fair and equitable compensation and appropriate indemnities** as agreed by the parties, or, if the parties do not agree, by court decision.

## 8. [Fees and royalties](#)

The Law regulates the types of financial obligations of concessionaires, the main ones being royalties, fees for the concession area in certain situations and exploitation fees.

The **royalty** is stipulated in the concession agreement and is payable for the period of the OWEP exploitation (starting from the date of OWEP commissioning), at a percentage rate of the revenues generated, to be approved by Government Decision until 30 June 2025.

For perimeters outside inland maritime waters and territorial sea, from the moment of obtaining the development approval until the moment of starting the exploitation, the concessionaires are obliged to pay a **fee for the concession area** of the constructed offshore wind perimeter and for the area occupied by underwater power cables connecting to grid connection points outside the concession area. A similar fee will also be paid for perimeters located on the surface of the property administered by Administrația Națională „Apele Române”.

Concessionaires are also obliged to pay a **fee for the exploitation** of the offshore wind perimeter, determined by reference to the surface area of the wind perimeter on which construction works are carried out and for the surface area occupied by the underwater electric cables to the connection points.

9. [Roadmap for the implementation of some provisions of the Law](#)

•••••••• Within 3 months of the entry into force of the Law:

ü the Ministry of Energy shall develop an expert study with a view to preparing the concession process and the exploration, construction and development of OWEP.

ü the competent authorities will set up several working groups in order to, among others (i) develop and promote a plan on the use of Romanian harbour infrastructure for the manufacturing and construction of equipment necessary for the construction of OWEP for national and regional use; (ii) identify the necessary solutions for the development of local supply chains for the construction of OWEP; (iii) implement vocational training programmes for the development and upgrading of the local workforce in order to provide the qualified personnel needed for the development of the supply chain and the construction of OWEP; (iv) identify the necessary measures for the establishment of a centre for advanced studies and research in the field of offshore wind energy.

•••••••• By 31 December 2024:

ü ANRE shall issue regulations on granting the set-up permits for OWEP.

ü ACROPO shall adopt implementing rules on the procedure for granting the development approval.

ü ANRE shall issue templates of the technical connection endorsement, connection agreement and connection certificate specific to OWEP and will amend the necessary regulations accordingly.

•••••••• From 1 January 2025: as part of the RET development plans, the TSO shall ensure the preparation of system studies to analyse the potential impact of large quantities of offshore wind energy on the national energy system and shall analyse the impact of wind power plant connection requirements on the national energy system.

•••••••• By 30 March 2025: ACROPO shall issue regulations on exploration activities, as well as on the construction/ decommissioning and exploitation of OWEP under safe operational conditions, in compliance with standards, codes and guidelines of good practice, as well as relevant legislative requirements.

••••••~ By 31 March 2025: on the basis of the study mentioned above, the Government shall approve the list of offshore wind perimeters that can be concessioned.

••••••~ By 30 June 2025:

ü the Government shall approve the specific rules on the concession procedures, the amount of royalties, fees, the financial guarantee of good performance of the concession agreement, as well as the support scheme, if applicable.

ü the Ministry of Energy shall approve the methodology for granting the exploration permit.

ü the Government shall adopt the procedure for the acceptance of works, including those carried out on land.

ü ANRE shall issue regulations on granting the productions license, considering the peculiarities of the OWEP.