



## Offshore Wind Energy

### 1. Introduction

Off-shore wind power is an innovative solution for Romania's energy capabilities, particularly as the country has access to the Black Sea territory. As a source of renewable energy, wind farms have become a prominent project of the European continent to ensure independence from fossil fuels. With suitable geographical elements and a new legislative framework regulating off-shore wind facilities, Romania is now more prepared than ever to follow the net-zero objectives of the European Green Deal.

The article discusses the provisions of the new Law 121/2024 on Offshore Wind Energy published in Romania which regulates the wind energy production in offshore territories. The legislation aims to provide a legal framework the projects by abiding to the principles of non-discrimination, loyal concurrence and protection of the natural environment.

### 2. Territory Concession Procedure

The offshore aeolian perimeter is defined as the surface of the public domain which is concessioned for the use of the project. To be offshore, the perimeter needs to be located inland maritime waters in the exclusive economic zone/continental shelf of the Black Sea (defined by reference to the UN Convention on the Law of the Sea from December 1982).

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The Ministry of Energy is required to commence a study for establishing the perimeter as well as to prepare the concession guidelines. The study will contain proposals related to the location of possible wind farms, energy networks, fees for concessions and exploration protocols. The study will also contain technical information regarding the established perimeters as well as the impact of the wind farms on the nearby environment. All geolocations will be decided having into consideration national security restrictions, exclusion zones and safety measures for underwater cables.

As a competent authority for establishing the offshore zones, the Ministry of Energy will consider the project locations based on aeolian potential and the conditions for the use of maritime waters. The final external limits are determined in consultation with the Ministry of Foreign Affairs.

The concession contracts will be awarded based on a procedure following Emergency Ordinance 57/2019. During the procedure, the Ministry of Energy can provide state aid which will benefit the construction and exploitation of wind farms for a maximum of 8 years after the concession contract is signed.

To be eligible to participate in the competitive procedure of obtaining a concession contract, providers must meet the following criteria: to be legally constituted according to the host Member state (if it is a foreign state, then they have to set a subsidiary in Romania), to not be in default/insolvency and to have all fiscal obligations paid to the Romania's budget. All legal representatives of the entities need to be free of any corruption convictions or international sanctions. Legal persons should not be in difficulty as defined under European Commission Guidelines on State Aid for Rescuing and Restructuring Non-Financial Undertakings in Difficulty 2014/C 249/01.

There is a specific provision for economic operators coming from outside the European Union which need to be able to partake in the concession procedure as foreign investors.

To host the competitive procedure, the competent authority will publish an announce containing the selection criteria (including proof of similar experiences and technological/financial and organisational potential), measures required for protecting the environment as well as specific deadlines.

After the award procedure is completed, a concession contract will be signed with the Ministry of Energy having the maximum duration of 30 years (which can be extended once up to 10 years). For any perimeters situated outside territorial seas, the provider will pay on the signing a fee for the surface of the offshore perimeter and cable network. These fees will also be payable annually and notified to the National Agency for Fiscal Administration. The contractor has to provide a financial guarantee for the qualitative execution of the contract which will be established by Government Decision. All holders of concession contracts must have an insurance policy for the construction of the offshore wind farm.

The concessioned perimeter can be explored only for 2 years from the signing of the contract using a permit given by the Ministry of Energy. All data obtained through the

exploration have to be made available for free to the Ministry of Energy alongside reports of the procedures used.

The Government will publish at the initiative of the Ministry of Energy until 30 June 2025 the concession award procedure as well as the specific perimeters approved for offshore wind farms.

### **3. Permitting Requirements**

The first requirement is to obtain a permit for the establishment of the wind power plant which can be provided by the National Agency for Energy Regulation. The guidelines for the permit will be published until 31 December 2024.

After obtaining the permit for establishment of the energy capacity, the contractor is required to obtain a development approval from the Competent Authority for the Regulation of Offshore Oil Operations in the Black Sea. The building approval is valid for constructions to link the wind farm to the energy transport network. Maintenance and safety interventions do not require a development approval.

To obtain the development approval from the Competent Authority for the Regulation of Offshore Oil Operations in the Black Sea, the following documents are needed: the final exploration report, an opinion from the National Administration "Romanian Waters", the approval of the Defence General Staff, the approval of the Ministry of Internal Affairs and the technical authorisation documentation. In the special case of archaeological sites, a discharge certificate has to be issued by the Ministry of Culture. The concessionaire has to declare that all costs will be covered by them in the case of environmental damage. An independent expertise is required for safety compliance.

Any works carried out on land also require an approval from the Competent Authority for the Regulation of Offshore Oil Operations in the Black Sea. To obtain the approval the following documents are required: the urbanism certificate (obtained from the county council), documents attesting right over the land and technical approval for connection issued by the transmission system operator.

It is important to note that following the construction approval, the construction works have to be commenced in maximum 12 months (with the approval being valid only for 5 years). Before commencing the works, the provider needs to consult the Hydrographic Maritime Direction within the Defence Ministry as well as the Naval Authority and the Secretariat of the Maritime Space Planning.

After the reception of the works and the trial period, National Agency for Energy Regulation will issue an energy production licence considering the characterises and functions of the wind power plants.

It is prohibited to conduct energy operations in the perimeter of buildings administered by the state with defence, national security and border protection purposes.

Following the decommission of the offshore wind power plant, environmental requirements have to be met. The developer has to restore the concessioned perimeter in its previous state from the signing of the contract with the Ministry of Energy.

#### **4. Connection to the electricity transmission grid**

As part of the transmission network development plans, the transmission operator will conduct an analysis for the impact of the offshore wind power plants on the national grid.

The conditions for connection to the grid by the offshore energy provider will be issued by the transmission system operator. The provider is obliged to follow the concession notice and follow the specifications of the transmission facilities to the grid connection point.

The developer of the offshore wind farm must develop on its own expenses the internal energy network, including the conversion stations and the cables of energy transport up to the point of connection to the electricity transmission grid. The developer is responsible for the use of the installations up to the connection point. The conditions of the usage and maintenance are established through the connection certificate issued by the transmission system operator.

In the case that the concessionaire does not connect the plant to the grid by following the licences provided, it is liable for all damages incurred by the transmission system operator. In the same manner, the transmission operator is liable for damages arising from failing to connect the wind power plant to the grid.

During the use of the wind power plant, the system operator can request the temporary limitation or stoppage of the production of energy from technical reasons or requests from institutions in the defence and national security domain.

#### **5. Concession of private property for the construction and operation of the wind farms**

According to the provisions of the present law, limitations to the right of private property may be imposed to terrains and buildings which are owned by individuals and companies. These limitations may include restricting the right of access for vehicles and the right of use for buildings. These restrictions have a legal character and do not require any registration in the land registry.

The concessionaire can store different materials and equipment on private property during the period of the development permit. The wind farm providers will need to notify the specific owner of the land 30 days prior to taking the actions above. Such a notification should include the operations which will be carried out over the property, the period of the works and any damages established through an evaluation report. All concessionaires are required to pay in advance a compensation to the landowners.

## 6. Other specific obligations

Off-shore wind energy providers are required to pay the fee specified in the concession contract throughout the duration of the operation of the power plant. During the period between the development approval and the effective moment of energy operations, a fee is payable to the state budget according to a future Government Decision.

All entities operating offshore wind farms are required to maintain a common level of cybersecurity. Any implementation of security policies will benefit from the assistance of the National Directorate of Cyber Security.

Additionally, the concessionaire has the obligation to provide to public authorities in the field of defence and national security any information requested to prevent and combat threats against Romania

## 7. Conclusion

The present law provides a complex framework for the regulation of wind farms operating offshore within Romania. These regulations aim to encourage the production of renewable energy while also ensuring a transparent process for all providers wishing to invest in this type of projects.

Should you wish to read the law translated in English, it is available in full here: <https://www.mprpartners.com/expertise/energy-natural-resources/?pub>

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