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### Overview

It is beyond doubt that storage systems (under any of the currently available form) must be widely accepted in order to facilitate the clean energy transition. Their benefits are widely recognized (reducing costs, optimizing revenues, increasing reliability for businesses, utilities, and communities in general).

In Romania, one felt a severe need to enhance the secondary legal framework on storage systems. Main relevant legal provisions could be found in the Energy Law no 123/2012 and the ANRE Order no 80/2013 approving the General Conditions associated to the Setting-up Authorization and the General Conditions associated to the Exploitation License. However, RES developers have hardly secured (rather small) locations for storage facilities, some of the new projects have already taken into consideration optimization through storage systems and some have factored into their economics revenues from storage-combined projects (not stand-alone ones), but there was still a reluctance to fully develop storage energy systems due to lack of technical legislation.

Much of the long waited technical rules on storage have eventually been enacted! Romania has its first technical regulation on storage installation, namely ANRE Order no 3/2023, that was published into the National Gazette on 19 January 2023 ("Order no 3/2023").

### Relevant provisions

✓ As storage seems essential on the long term in supporting transformation of the rigid old infrastructure to a more flexible one, some have actually wondered if storage could be imposed as mandatory for new projects. There is no such thing under Order no 3/2023 (each investor remains free to decide if, when and to what extent it makes sense to add a storage system).

✓ It is now expressly clarified that storage installations: - can be added to operational (i.e. functional) projects - can be designed and permitted along with new projects or - can be designed and permitted on a stand-alone basis. For existing / new projects, in order for a storage system to be added, such system must bring into the project a higher IRR (than the generating plant as such). While we are aware some of the investors present in the country do currently have large stand-alone battery energy saving systems (BESS) projects commissioned / under commissioning in other jurisdictions (particularly, the United Kingdom), in the Romanian RES environment there is reluctance to develop such large-scale stand-alone projects (as the "market conditions are not there yet"). One could see that Order no 3/2023, by removing some of the technical unclarities, should help laying the foundation for such market conditions (of course, complemented by other elements).

✓ A few years ago, when the second wave of renewables was only emerging, there were interpretations that any added storage capacity would have to be counted against the capacity permitted under the technical connection permit ("ATR"). It is now clear (from several provisions spread under the Order no 3/2023) that storage installations can be added to a project having obtained already an ATR (or even a connection certificate) without amendment to the permitted capacity (i.e. storage is not supplemental to the generating capacity, unless expressly required as such by the investor).

✓ Order no 3/2023 sets specific technical conditions rules for storage installations depending on their installed capacity (i.e. category A: 0,8 kW – 1 MW; category B: 1 MW – 5 MW; category C: 5 MW – 20 MW and category

D: > 20 MW, as per the classification provided under ANRE Order no 79/2016).

✓ Prior to the issuance of the connection certificate, the putting into function of storage installations (with an installed capacity higher than 0.8 kW) must follow the verification steps set under ANRE Order no 51/2019; it is also set forth (as a condition) that in order to issue the connection certificate, the final functioning notification (Romanian: notificarea de functionare finala) must be issued.

✓ In case of prosumers willing to install such storage systems, they benefit of certain exceptions (e.g. they are exonerated from filing the technical documentation of the storage installation).

### **Conclusions**

Storage capacity can help changing the way grids have been used so far (i.e. as one way street with electrons moving only from the generating place towards the consumer). Without storage, generated electricity must be consumed instantly. As such, storage systems help accumulating energy in the peak generation times (e.g. when there is more generated electricity than demand) and discharge it at the peak times when there is energy deficit (and prices are highest). As such, it is important for the storage equipment to enable fast storage (in seconds) and be able to store it for to longer periods so that eventually houses and business can be powered by green energy, even if the wind is not blowing or the sun is not shining. As such, implementing a legal framework with clear technical requirements can only benefit deployment of storage on large scale.

Storage facilities are operated on the basis of intelligent software algorithms that control energy production decide when to keep the energy to provide reserves and when to release it into the grid. Romania is only at the beginning of this road which seems obvious that we will have to take.

After only one month into 2023, one can state that the beginning of the year was highly productive in terms of positive legal changes for the green sector in Romania: from the removal of the zonal urban planning (PUZ) for RES projects developed on extra-muros surfaces below 50 ha (i.e. amendment to the Construction Law no 50/1991), to the reduction to 5% of the VAT quota applicable to deliveries and installation of photovoltaic panels (i.e. amendment to the Fiscal Code) and ANRE Order no 3/2023 above mentioned – all seems to demonstrate strong support for RES development. Let us hope this trend will be maintained!