

ACTIVITY COMPLETION REPORT

Assistance to the Ministry of Economy for the transposition of Directives 2009/72/EC & 2009/73/EC into the national legislation

(CWP.01.MD)

**INOGATE Technical Secretariat and Integrated Programme in support of the
Baku Initiative and the Eastern Partnership energy objectives**

Contract No 2011/278827

A project within the INOGATE Programme

Implemented by:

Ramboll Denmark A/S (lead partner)
EIR Global sprl.
The British Standards Institution
LDK Consultants S.A.
MVV decon GmbH
ICF International
Statistics Denmark
Energy Institute Hrvoje Požar

Document title	Activity Completion Report “Assistance to the Ministry of Economy for the transposition of Directives 2009/72/EC & 2009/73/EC into the national legislation” (CWP.01.MD)
Document status	Final

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Union.

Acronyms

DSO	Distribution System Operator
EC	European Commission
EnCS	Energy Community Secretariat
EU	European Union
ITS	INOGATE Technical Secretariat
MD	(Republic of) Moldova
NRA	National Regulatory Authority
RIA	Regulatory Impact Assessment
ToR	Terms of Reference
TSO	Transmission System Operator
TYNDP	Ten Year Network Development Plan
WG	Working Group

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ENERGY COOPERATION BETWEEN THE EU, THE LITTORAL STATES OF THE BLACK & CASPIAN SEAS AND THEIR NEIGHBOURING COUNTRIES

1 PART 1 – EUROPEAN COMMISSION

1.1 Background

Assignment Title:	Assistance to the Ministry of Economy for the transposition of Directives 2009/72/EC & 2009/73/EC into the national legislation
Country and Dates:	Republic of Moldova (May 2015 – November 015)
Beneficiary Organisation(s):	Ministry of Economy
Beneficiary Organisation’s key contact persons – name and e-mail address	Mariana Botezatu mariana.botezatu@mec.gov.md
Deliverables Produced	A summary activity report accompanied by Draft Laws on Electricity and Gas (including amendments to Energy Law), Regulatory Impact Assessment and Explanatory Notes
Expert Team Members	Mr Nikos Turlis (Task Leader/Electricity Expert) Mr Alexandros Pramagioulis (Regulatory Expert) Mr Otto Musilek (Gas Industry Expert) Mr Anatol Saracuta (Local Regulatory Expert) Ms Veronica Muruziuc (Local Legal Expert)

1.2 Essence of the Activity

The focus of the activity was to assist the Ministry of Economy in the process of developing and proposing for adoption primary legislation acts that will transpose Directive 2009/72/EC concerning common rules for the internal market in electricity and Directive 2009/73/EC concerning common rules for the internal market in natural gas into the national legislation in compliance with requirements of Moldova under the Energy Community Treaty (“the EnCT”).

In respect of the new legislation on the energy sector of the Republic of Moldova the INOGATE team assisted the Ministry of Economy in the following areas:

1) Draft Electricity Law:

1. Review of draft of Electricity Law, Regulatory Impact Assessment (“RIA”) and Explanatory Note. The draft Electricity Law has been placed in public consultation (3-22 June 2015);
2. Assistance to the Ministry of Economy in the consultation process with the national stakeholders and the national institutional parties involved in the draft Electricity Law, Regulatory Impact Assessment (“RIA”) and Explanatory Note assessment and consent:
 - a. Assistance in the public consultation included technical/regulatory/legal advice on the comments received by the national stakeholders, as well as the organisation of a one-day workshop on electricity in which the EU Delegation and the EnCS representatives were also invited. This workshop took place on 6th of July 2015;

- b. Assistance in relation to the local legal promulgation process included the assessment of comments provided by the Centre for Harmonisation of Legislation. Finalisation of Table of concordance, as well as the review and consent of the National Centre for Anti-corruption and of the Ministry of Justice as per national legislation.
3. Development with the cooperation of the Ministry of Economy of the necessary amendments to subsequent and or other relevant legislative acts in order to avoid potential conflicts between the draft Law on electricity and other legislative acts.

2) Draft Natural Gas Law:

4. The draft Natural Gas Law developed so far by previous technical assistance expert teams was reviewed by the ITS team following the release by the Ministry of Economy of the version commented by the EnCS of the draft Natural Gas Law. This is considered necessary in order to ensure compliance.
5. Assistance to the Ministry of Economy in refining and adapting or elaborating the provisions of the draft Natural Gas Law and to develop the Regulatory Impact Assessment (“RIA”) and Explanatory Note. The draft Natural Gas Law has been placed in public consultation (24 August - 7 September 2015);
6. Assist the Ministry of Economy in the consultation process with the national stakeholders and the national institutional parties involved in the draft Natural Gas Law, Regulatory Impact Assessment (“RIA”) and Explanatory Note assessment and consent:
 - a. Assistance in the public consultation included technical/regulatory/legal advice on the comments received by the national stakeholders; Including a one-day workshop on natural gas in which the EU Delegation and the EnCS representatives were also invited. This workshop took place on the 7th of July 2015;
 - b. Assistance in relation to the local legal promulgation process included the assessment of comments by the Centre for Harmonisation of Legislation and elaboration of Table of Concordance as well as the review and consent of the National Centre for Anti-corruption and Ministry of Justice as per the national legislation.
7. Development with the cooperation of the Ministry of Economy of the necessary amendments to subsequent and or other relevant legislative acts in order to avoid potential conflicts between the draft Natural Gas Law and other legislative acts.

3) Amendments to the Energy Law:

8. Revision of the existing Energy Law taking into consideration the proposed amendments. The Energy Law amendments will be communicated to the EnCS after its approval by the Government;
9. Drafting the amendments on the Energy Law;
10. Translation the Energy Law including the proposed amendments to English;
 - Assistance to the Ministry of Economy in developing the Regulatory Impact Assessment (“RIA”) and Explanatory Note.

1.3 Key Findings

The assignment commenced in June 2015 with remote assistance and development of the necessary knowledge base in relation to the state of advancement of the existing drafts of the legislation. A previous USAID-funded project has worked on the Electricity Law and EU assistance (including the Energy Community Secretariat) aimed to the development of the draft Natural Gas Law. Forward to this development, the purpose of the kick-off mission of 8-10 June 2015 was to discuss the guiding ideas over which the analysis would deploy and also to get feedback on specific issues that were of an immediate and specific interest to the beneficiaries.

It is important to be mentioned that a mix of different conditions are believed of being crucial for the successful implementation of the project:

- The strong commitment and continuous support by the beneficiary
- The capacity, specific knowledge and self-motivation of the local team of experts
- The support of the international team which offered a reference to the EU practices on areas where the legislation had to describe forward steps compared to existing situation in Moldova

The main outputs of this project include:

- A public consultation organised by the Ministry of Economy of the Republic of Moldova;
- Two workshops organised in Chisinau by INOGATE Technical Secretariat with a view to support decision making, explain the process of public consultation to the national stakeholders and increase transparency particularly with respect to to the level of flexibility allowed on implementing the Third Energy Package.
- The final drafts of legal texts along with the Tables of Concordance, Regulatory Impact Assessments, and Explanatory Notes (required by the lawmaking process in the Republic of Moldova). More specifically, the submissions included:
 - The draft new Electricity package approved by the Government on the 7th of October 2015 (see Annex 1)
 - The draft new Natural Gas package approved by the Government on the 28th of October 2015 (see Annex 2)
 - The draft revised Energy package submitted to the Ministry of Economy on the 3th of November 2015 (see Annex 3)

1.4 Ownership and Benefits of the Activity

The main benefit of the activity in the short term is Moldova's compliance to the Energy Community Treaty requirements. In the long run, however, this new legislation if timely and correctly implemented is expected to lead to the development of the electricity and gas sectors of Moldova and their integration with the EU market in an affordable and sustainable manner. On a qualitative basis the beneficiary has gained momentum in setting the process for a gradual compliance with the Energy Community Treaty in areas beyond the electricity and gas markets.

The Ministry of Economy showed the commitment and leadership as well as led the way for the rest of the stakeholders in order to ensure that the industry voices are taken into account during law-

making. This was considered to be one of the significant success factors. The continuation and coordination between successive parties that have been involved in the development and evolution of both the electricity and natural gas drafts was guaranteed by administration of the public consultation process by the beneficiary.

1.5 Recommendations

Actions and measures recommended to be taken after completion of the activity include:

- Sustaining the existing level of consultation when important decisions for the development of the energy sector are to be faced in the country;
- Proceed rapidly in the approval of the drafts by the parliament so that the implementation of the secondary legislation can start;
- Ensure that the implementation of the secondary legislation comes timely and with broad consensus among the affected parties. Primary legislation is meant to provide the tools for setting up some high level principles for the organisation and operation of the electricity and gas sectors. The meaning of the provisions should be adequately and consistently reflected in the implementing regulations.

1.6 Challenges Faced

Time above all is the key consideration in all reform processes. On one hand there is not enough time to reflect all possible future conditions by which this legislation may appear in adequate in the future and the other hand it is difficult to reflect and cure on an ex-ante basis possible problems that may (or may not) arise in the future. The Moldovan legal and regulatory context comprises another interesting specificity; institutional strength of critical entities in the market i.e. NRA, TSO need to consolidate practically their authority and decision making power. For the time being legislation (more specifically the primary one which was the subject of this assignment) is deliberately way too descriptive and misses some creative flexibility and critical space for institutions to micro-optimize their conduct while staying well inside the predetermined legal framework. It is expected with some certainty that this stiffness may lead to amendments on the primary legislation the next time the internal and external market conditions are marginally changed.

1.7 Impact Matrix

Impact Area	Developments	2012 (%)	2015 / Apr 2016 (%)
Policy	<i>A Law on Electricity drafted along with Regulatory Impact Assessment and Explanatory Note and adopted by the Government after Public Consultation</i>	Legislation implementing the 2 nd Energy Package	Legislation implementing the 3 rd Energy Package
	<i>A Law on Natural Gas drafted along with Regulatory Impact Assessment and Explanatory Note and adopted by the Government after Public Consultation</i>	Legislation implementing the 2 nd Energy Package	Legislation implementing the 3 rd Energy Package
	<i>Amendments to the Law on Energy drafted along with Regulatory Impact Assessment and Explanatory Note and adopted by the Government after Public Consultation</i>	Legislation implementing the 2 nd Energy Package	Legislation implementing the 3 rd Energy Package
Regulation			
Technology			
Environment			
Economics			
Social			

Other			
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It is important to mention that the national stakeholders have contributed quite actively in the process of developing the draft legislation which on one hand had to transpose in a prudent and adequate manner the provisions of the the Third Energy Package Directives to the legislative framework of the Republic of Moldova and to another hand to take into account the national specificities in order to make the new legislation workable for the future development of the national energy sector. An evaluation of the value of this collaborative effort may easily be revealed by addressing the short term quantifiable indicators provided in the activity's Terms of Reference:

1. Number of respondents and number of comments addressed in the public consultation;
2. Number of justifications provided for the adoption of respondents comments/proposals in the revised draft
3. Number of applicants for consultation workshop participation

The results of the quantification of impact in respect of the predefined short term indicators are illustrated in Figure 6:

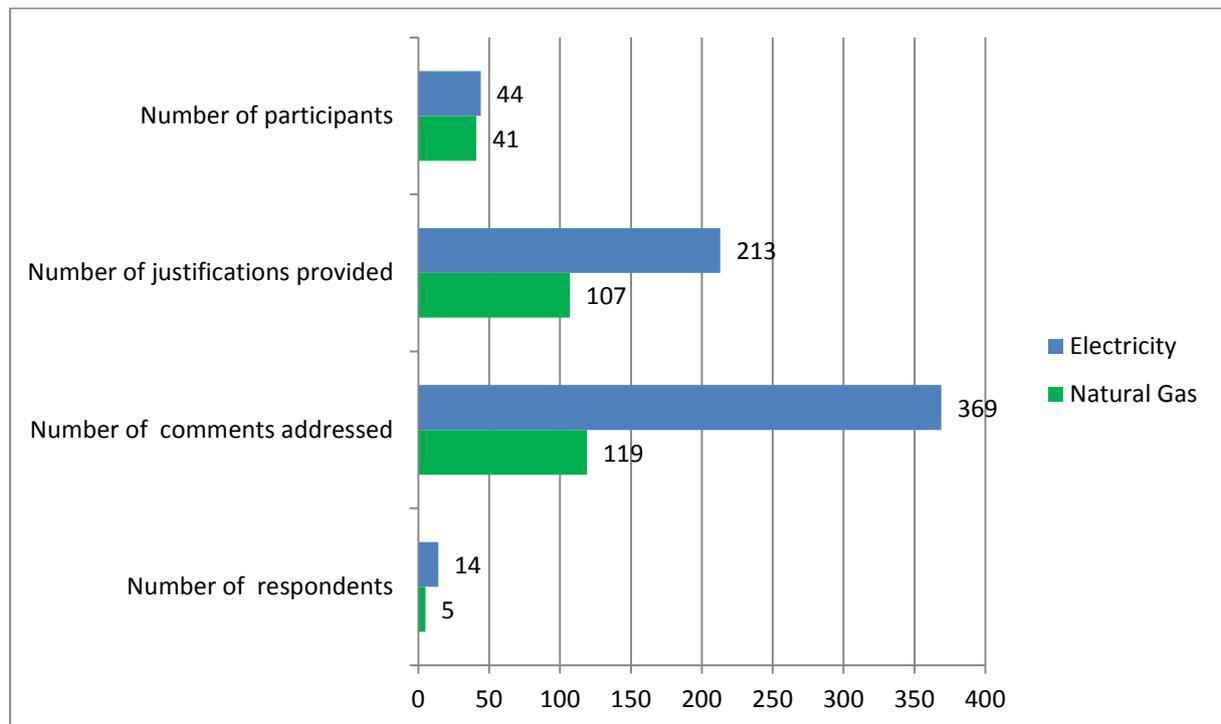


Figure 1: Short term impact indicators

The assessment of indicators above refer to Electricity and Natural Gas tasks of the activity as the amendments of Energy Law were not foreseen to be put on public consultation and there was no time on the workshops devoted specifically to that area of work. It is also worthwhile to be mentioned that the above chart reflects only on the comments received by the national stakeholders and

does not include the internal comments/discussions with the Ministry of Economy and neither the comments of the Energy Community Secretariat.

The qualitative side of the impact is presented in the below table :

Impact Area	Developments	2012	Apr 2016
Policy	<i>Electricity Law (approved by the Government of the Republic of Moldova)</i>	Electricity Law partially compliant to the 2 nd Energy Package	Electricity Law compliant to the 3 rd Energy Package
	<i>Natural Gas Law (approved by the Government of the Republic of Moldova)</i>	Natural Gas Law partially compliant to the 2 nd Energy Package	Natural Gas Law compliant to the 3 rd Energy Package
	<i>Energy Law (approved by the Government of the Republic of Moldova)</i>	Energy Law partially compliant to the 2 nd Energy Package	Amendments to the Energy Law to ensure compliance to the 3 rd Energy Package

2 PART 2 - BENEFICIARIES

2.1 Executive Summary

The present report comprises the final deliverable of an assignment carried out under the Country Work Plan of Moldova in the frame of “INOGATE Technical Secretariat & Integrated Programme in support of the Baku Initiative and the Eastern Partnership energy objectives” project, funded by EC/Europeaid. The request for provision of Technical Assistance has been discussed with the Ministry of Economy of the Republic of Moldova and has been included as a first priority in the list of Technical Assistance projects included in the County Work Plan of Moldova.

The preparation of the Terms of Reference commenced in 1st of May 2015 when an initial consultation on the scope of work was launched with the Ministry of Economy. The Terms of Reference for the assignment entitled CWPO1.MD: “Assistance to the Ministry of Economy for the transposition of Directives 2009/72/EC & 2009/73/EC into the national legislation” were approved by the EC on the 26th of May 2015 following consultations with the Ministry of Economy and the Energy Community Secretariat have been approved by the EC on the 26th of May 2015. On the 9th and 10th of June the first mission of the international team of experts took place in Chisinau and on the first day a kick-off meeting attended by all Steering Committee members with the exemption of the Energy Community Secretariat representative was held in the premises of the Ministry of Economy. The Ministry of Economy and the EU Delegation to Moldova have requested changes to the Terms of Reference during the kick of meeting which were finally reflected in the final Terms of Reference agreed by all parties on the 3rd of July 2015.

The project included a second mission of the international experts’ team on 6-7 July 2015 when the two public consultation workshops on the Draft Electricity and Natural Gas Laws respectively have been discussed with national stakeholders. The project was concluded on 3rd November 2015.

2.1.1 Objectives of the study, key findings and recommendations

According to the ToR, the assignment had to assist the Ministry of Economy in the process of developing and proposing for adoption primary legislation acts that will transpose Directives 2009/72/EC concerning common rules for the internal market in electricity & 2009/73/EC concerning common rules for the internal market in natural gas into the national legislation in compliance with requirements of Moldova under the Energy Community Treaty (“the EnCT”).

In respect of the new legislation on the energy sector of the Republic of Moldova the INOGATE team assisted the Ministry of Economy in the following areas:

4) Draft Electricity Law:

1. Review of so far developed draft of Electricity Law, Regulatory Impact Assessment (“RIA”) and Explanatory Note. The draft Electricity Law has been placed in public consultation (3-22 June 2015);
2. Assistance to the Ministry of Economy in the consultation process with the national stakeholders and the national institutional parties involved in the draft Electricity Law, Regulatory Impact Assessment (“RIA”) and Explanatory Note assessment and consent:
 - a. Assistance in the public consultation included technical/regulatory/legal advice on the comments received by the national stakeholders, as well as the organisation of a one-day workshop on electricity in which the EU Delegation and the EnCS representatives were also invited. This workshop took place on 6th of July 2015;
 - b. Assistance in relation to the local legal promulgation process included the assessment of comments provided by Centre for Harmonisation of Legislation and finalisation of Table of concordance, as well as the review and consent of the National Centre for Anti-corruption and of the Ministry of Justice as per the national legislation.
3. Development with the cooperation of the Ministry of Economy of the necessary amendments to subsequent and or other relevant legislative acts in order to avoid potential contradiction between the draft Law on electricity and other legislative acts.

5) Draft Natural Gas Law:

1. The draft Natural Gas Law developed so far by previous technical assistance expert teams was reviewed by the ITS team following the release by the Ministry of Economy of the commented by the EnCS version of the draft Natural Gas Law. This is considered necessary in order to ensure compliance.
2. Assistance to the Ministry of Economy in refining and adapting or elaborating the provisions of the so far developed draft Natural Gas Law and to develop the Regula-

tory Impact Assessment (“RIA”) and Explanatory Note. The draft Natural Gas Law has been placed in public consultation (24 August - 7 September 2015);

3. Assist the Ministry of Economy in the consultation process with the national stakeholders and the national institutional parties involved in the draft Natural Gas Law, Regulatory Impact Assessment (“RIA”) and Explanatory Note assessment and consent:
 - a. Assistance in the public consultation included technical/regulatory/legal advice on the comments received by the national stakeholders; It also included an one-day workshop on natural gas in which the EU Delegation and the EnCS representatives were also invited. This workshop took place on the 7th of July 2015;
 - b. Assistance in relation to the local legal promulgation process included the assessment of comments of Centre for Harmonisation of Legislation and elaboration of Table of Concordance as well as the review and consent of the National Centre for Anti-corruption and Ministry of Justice as per the national legislation.
4. Development with the cooperation of the Ministry of Economy of the necessary amendments to subsequent and or other relevant legislative acts in order to avoid potential contradiction between the draft Natural Gas Law and other legislative acts.

6) Amendments to the Energy Law:

1. The review of the existing Energy Law in comparison to the proposed amendments. The Energy Law amendments will be communicated to the EnCS after its approval by the Government;
2. Drafting the amendments on the Energy Law;
3. Translate the Energy Law including the proposed amendments in English;
 - Assist the Ministry of Economy in developing the Regulatory Impact Assessment (“RIA”) and Explanatory Note.

2.1.2 Methodology and outputs

The assignment commenced in June 2015 with remote assistance and development of the necessary knowledge base in relation to the state of advancement of the existing drafts of the legislation. A previous USAID-funded project has worked on the Electricity Law and EU assistance (including the Energy Community Secretariat) aimed to the development of the draft Natural Gas Law. Forward to this development, the purpose of the kick-off mission of 8-10 June 2015 was to discuss the guiding ideas over which the analysis would deploy and also to get feedback on specific issues that were of an immediate and specific interest to the beneficiaries.

It is important to be mentioned that a mix of different conditions are believed of being crucial for the successful implementation of the project:

- The strong commitment and continuous support by the beneficiary

- The capacity, specific knowledge and self-motivation of the local team of experts
- The support of the international team which offered a reference to the EU practices on areas where the legislation had to describe forward steps compared to existing situation in Moldova

The main outputs of this project include:

- A public consultation organised by the Ministry of Economy of the Republic of Moldova;
- Two workshops organised in Chisinau by INOGATE Technical Secretariat with a view to support decision making, explain the process of public consultation to the national stakeholders and increase transparency particularly with respect to the level of flexibility allowed on implementing the Third Energy Package.
- The final drafts of legal texts along with the Tables of Concordance, Regulatory Impact Assessments, and Explanatory Notes (required by the lawmaking process in the Republic of Moldova). More specifically, the submissions included:
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 - The draft new Natural Gas package approved by the Government on the 28th of October 2015 (see Annex 2)
 - The draft revised Energy package submitted to the Ministry of Economy on the 3th of November 2015 (see Annex 3)

2.1.3 Limitations and further work

There were no limitations in the explicit meaning of the term associated with this work. Time and resources limitations are always present in Technical Assistances of this kind. A key difficulty in such an endeavour is to correctly estimate the time schedule and resources required in order to successfully complete the given task. Time schedule largely depends on the responsiveness and speedy approval by the parties contributing to the public consultation and the authorities that provide comments, opinions and eventually grant their approval on the drafts, respectively. Resources on the other hand had to do with finding the balance between effort, time and quality aspects. All activities have been completed with a shorter or larger delay with respect to the foreseen deadlines in the ToR. This was however an anticipated development identified as early as in the kick-off meeting where the review and appraisal steps involving a number of stakeholders have been thoroughly analysed.

The requirements of the new legislation set forth a series of reforms which will eventually transform the Moldovan energy sector. Some of the provisions of the new law have already commenced their implementation i.e. unbundling but it is estimated that generally the remainder of implementation and enforcement will be a challenging process that Moldova has to undergo in the next term. INOGATE's next involvement in this area is currently under discussion and refers to Transmission network planning. Article 30 of new draft Electricity Law provides for the responsibilities of the TSO whereas article 34 refers explicitly to the transmission network development plan. The planned activity is expected to initiate the procedures for the development of the transmission network development plan and also to prepare the draft piece of secondary legislation in this regard.

2.1.4 Structure of the report

The report comprises two parts; its main body where a description of the activity is presented and 4 annexes comprising the deliverables of the activity as follows;

Section 2.2 describes the legislative process in the Republic of Moldova with a view to provide the local context in which this activity was called to adapt.

Section 2.3 presents the consultation process both in terms of the official public consultation carried out under the responsibility of the Ministry of Economy as well as the two workshops organized by ITS

Section 2.7 comprises an analysis of the short term impact and attempts a brief interpretation of the dynamics of the responses to the public consultation

Annex 1 summarises the deliverables related to the work carried out for the development of the new Electricity Law package

Annex 2 summarises the deliverables related to the work carried out for the development of the new Natural Gas Law package

Annex 3 summarises the deliverables related to the work carried out for the development of the amended Energy Law package

Annex 4 provides the list of participants to the ITS workshops on Electricity and Natural Gas

2.2 Overview of the legislative process in the Republic of Moldova

While the present document does not comprise guidance for the legislative development of any law in the Republic of Moldova we consider important to include in this activity report a short overview of the processes and documents that need to be developed for a new law to be enacted in the country.

It is worthwhile to be mentioned that a detailed procedure is followed for the case of development of new laws and the introduction of amendments to laws that regulate an entrepreneurial activity. Key documents that need to be developed and thoroughly assessed during the course of the procedures include: the draft law itself, an Explanatory Note and Regulatory Impact Assessment as well as the Table of Concordance and summary of consultation.

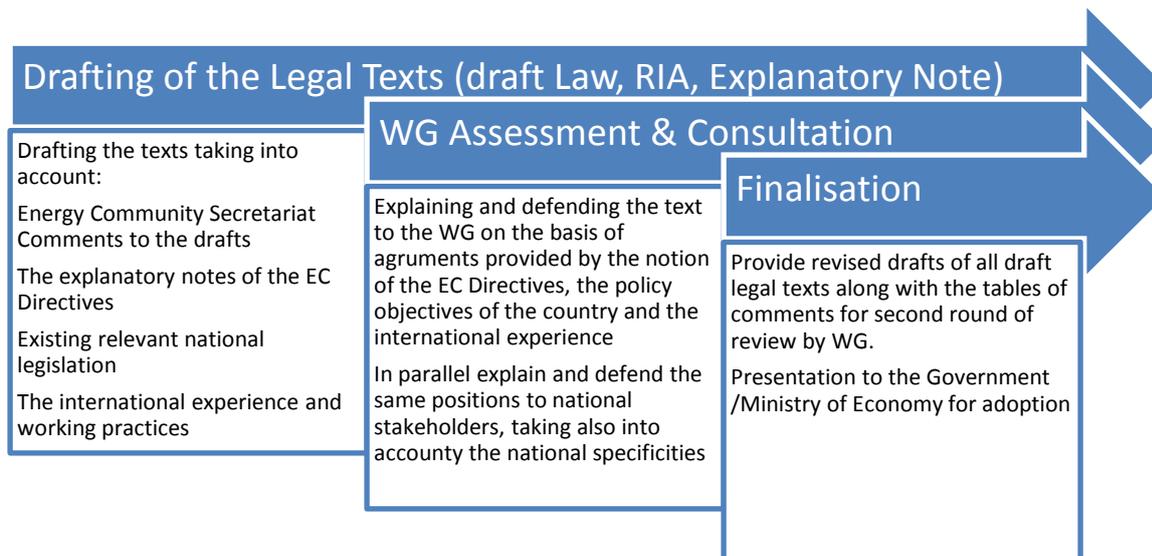


Figure 2: Overview of the assistance in accordance to the national legislative process

The above schematic attempts to illustrate the complexity of the decision making process. It can be noticed that the process involves organisations which are able to provide a set of very specialized views on the draft legislation text (e.g. the National Regulatory Authority) as well as the rest of the pre-determined process which may lack the capacity in the specific subjects addressed in the Third Energy Package Directives. This mix of decision makers required a balanced approach in order to be able to deliver the final drafts in a timely and coordinated fashion.

2.2.1 Legislation providing for legislation development

The following list of legislative and normative acts provide for the development, consultation and adoption of new legislation in the Republic of Moldova:

- Law on legislative acts, no. 780/27.12.2001;
- Law on transparency in the decision making process, no. 239/13.11.2008;
- Law on main principles for regulating entrepreneurial activity, no. 235/20.07.2006;
- Law on the National Centre of Anticorruption, no. 1104/06.06.2002
- Governmental Resolution approving the Methodology for RIA and on monitoring the efficiency of the regulatory process, no. 1230/24.10.2006;
- Governmental Resolution on anticorruption expertise of legislative and normative acts, no. 977/23.08.2006;
- Governmental Resolution on harmonization of the Moldovan legislation with EU legislation, no. 1345/24.11.2006;
- Governmental Resolution on legal expertise and state registration of normative acts, no. 1104/28.11.1997.

2.2.2 Working Group activities, Regulatory Impact Activity and Explanatory Note

According to the Law no. 235/2006 and Law no. 780/2001, all normative acts regulating entrepreneurial activity shall be prepared together with RIA, which is part of the Explanatory Note to the Draft.

First RIA that should be prepared before drafting the legislative act is the Preliminary RIA. It should receive positive opinion of the Working Group (WG) on regulating entrepreneurial activity within a timeframe of 14 days (GR no. 1230/2006). The Working Group shall adopt an opinion on:

- Acceptance of the Preliminary RIA and recommend the authority (the author of the Preliminary RIA) to proceed to the elaboration or the Draft itself;
- Refusal of the Preliminary RIA and by consequence, the elaboration by the authority of the draft of the normative act is halted;
- Issuance of an opinion after examination of the Final RIA (which should include a deep cost-benefit analysis).

Upon the opinion of the WG, the authority-author shall proceed to the elaboration of the Draft or of the Final RIA. In addition, the relevant stakeholders should be consulted regarding the Preliminary RIA.

2.2.3 Legal provisions on the consultation process

According to the Law on transparency, the Draft of the law shall be published on the website of the authority-author and shall be sent for review and comments to relevant stakeholders within the so-called public consultation procedure. The consulted stakeholders should be given minimum 15 working days for presenting their comments. The Draft law should be also sent to the National Centre of Anticorruption for anticorruption expertize. The comments received during public consultations shall be reflected in a table of comments.

The Draft Law should also be sent together with the Table of concordance to the Centre for Harmonization of the legislation (to reflect the degree of harmonization of the Draft with the EU acquis). Finally, the Draft should be sent to the Ministry of Justice.

2.2.4 Finalization of the Draft Law

The finalized Draft law shall be sent to the WG, together with the Preliminary or Final RIA with the amended Chapter related to public consultations and the Table of comments. Usually, the WG examines the Draft and additional documents within 1 week. After the WG approves the Draft law, it can be presented to the Government.

2.3 Consultation Process

2.3.1 Public Consultation

As described earlier, the consultation process is clearly defined by the legal and normative framework of the Republic of Moldova. In line with the legal requirements the public consultation was organized by the Ministry of Economy.



Figure 3: The Electricity Draft Law Public Consultation

The set of draft legal documents required for the public consultation¹ on the new Electricity Law were uploaded to the Ministry of Economy’s website on the 3rd of June 2015 and the consultation was open up on the 22nd of June 2015.

The comments were to be provided on a predefined form. For the respondents that didn’t follow this requirement in the first instance a notice by the Ministry of Economy was given. The comments to the drafts were addressed by the ITS team in coordination with the Ministry of Economy.

As for the draft Electricity legal texts, a public consultation² took place for the case of the respective Natural Gas set of draft legal texts. The documents were uploaded to the Ministry of Economy website on the 24th of August 2015 and the consultation was open up on the 7th of September 2015 as shown in Figure 3 below.

It is worthwhile to be mentioned that for the revision of the existing Energy Law there was no similar process foreseen by the national relevant legislation. Consultations took place by sharing the draft with the National Regulatory Authority while a draft Regulatory Impact Assessment was also prepared as the amendments in the Energy Law had effect and referenced on the rest of the legal and regulatory framework of the Republic of Moldova.

¹ <http://particip.gov.md/proiectview.php?l=ro&idd=2332>

² <http://particip.gov.md/proiectview.php?l=ro&idd=2512>



Figure 4: The Natural Gas Draft Law Public Consultation

In addition to the legally foreseen public consultation process, INOGATE organised two back-to-back consultation workshops as described below.

2.3.2 INOGATE consultation workshops

The purpose of the Electricity and Natural Gas workshops organized by INOGATE was complementary to the official public consultation organized by the Ministry of Economy. They took place on the 6th and 7th of July 2015 in Chisinau and enabled the vis-à-vis interaction of the national stakeholder representatives with the international members of the ITS team. The benefit of the interaction was on one hand the acquaintance of the international members of the ITS team with a set of specificities that needed to be taken into account during the transposition of the Third Energy Package Directives to the legislative framework of the Republic of Moldova. On the other hand the representatives of the national stakeholders benefited from international experience and learned the critical provisions of the Third Energy Package Directives and the way these had been implemented in other jurisdictions.



Figure 5: Snapshot from the discussion during the 6 July Electricity consultation workshop

The workshops were attended by the political leadership of the Ministry of Economy and the representative of the EU Delegation to Moldova in the first day when keynote speeches were also included in the agenda.



Figure 6: Snapshot from the discussion during the 7 July Natural Gas consultation workshop

The agendas of the two days and the respective list of participants can be found in Annex 4

2.4 Ownership and Benefits of the Activity

As already mentioned in section 2.1.2 above the commitment and leadership provided by the Ministry of Economy was one of the significant success factors. The continuation and coordination between successive parties that have been involved in the development and evolution of both the electricity and natural gas drafts was guaranteed by administration of the public consultation process by the beneficiary. . The benefits in the short term are Moldova's compliance to the Energy Community Treaty requirements. In the long run, this new legislation, (if timely and correctly implemented) is expected to lead to the development of the electricity and gas sectors of Moldova and their integration with the EU market in an affordable, and sustainable manner. On a qualitative basis the beneficiary has gained momentum in setting the process for a gradual complete compliance with the Energy Community Treaty in areas beyond the electricity and gas markets.

2.5 Recommendations

Some key recommendations resulting from this process may refer to:

- Sustaining the existing level of consultation when important decisions for the development of the energy sector are to be faced in the country;
- Proceed rapidly in the approval of the drafts by the parliament so that the implementation of the secondary legislation can start;
- Ensure that the implementation of the secondary legislation comes timely and with broad consensus among the affected parties. Primary legislation is meant to provide the tools for setting up some high level principles for the organisation and operation the electricity and gas sectors. The meaning of the provisions should be adequately and consistently reflected in the implementing regulations.

2.6 Challenges Faced

Time above all is the key consideration in all reform processes. On one hand there is not enough time to reflect all possible future conditions by which this legislation may appear in adequate in the future and the other hand it is difficult to reflect and cure on an ex-ante basis possible problems that may (or may not) arise in the future. The Moldovan legal and regulatory context comprises another interesting specificity; institutional strength of critical entities in the market i.e. NRA, TSO need to consolidate practically their authority and decision making power. For the time being legislation (more specifically the primary one which was the subject of this assignment) is deliberately way too descriptive and misses some creative flexibility and critical space for institutions to micro-optimize their conduct while staying well inside the predetermined legal framework. It is expected with some certainty that this stiffness may lead to amendments on the primary legislation the next time the internal and external market conditions are marginally changed.

2.7 Impact Assessment

The practical assistance and preparation of draft legislation that eventually reached the approval of the national government is rare achievement in the 20 year long history of INOGATE. The character of the support provided in the framework of INOGATE while generally supporting reforms of the energy markets in the Partner Countries by raising awareness and providing the necessary knowledge has never reached to the practical development of draft legislation which finally reached the government's approval.

The strong initiative and commitment of the Ministry of Economy of the Republic of Moldova and the close coordination and compliance assessment by the Energy Community Secretariat need to be referenced here along with previous efforts put forward for the elaboration of early drafts through the assistance by the EU and USAID. In this collaborative effort the ITS team has acted as an advisor and provided the right mix of skills and expertise required to deliver the targeted results in a really tight time schedule.

It is equally important to mention that the national stakeholders have contributed quite actively in the process of developing the draft legislation which on one hand had to transpose in a prudent and adequate manner the provisions of the the Third Energy Package Directives to the legislative framework of the Republic of Moldova and on the to other hand to take into account the national specificities in order to make the new legislation workable for the future development of the national energy sector. An evaluation of the value of this collaborative effort may easily be revealed by addressing the short term quantifiable indicators provided in the activity's Terms of Reference:

4. Number of respondents and number of comments addressed in the public consultation;
5. Number of justifications provided for the adoption of respondents comments/proposals in the revised draft
6. Number of applicants for consultation workshop participation

The results of the quantification of impact in respect of the predefined short term indicators are illustrated in Figure 6 below:

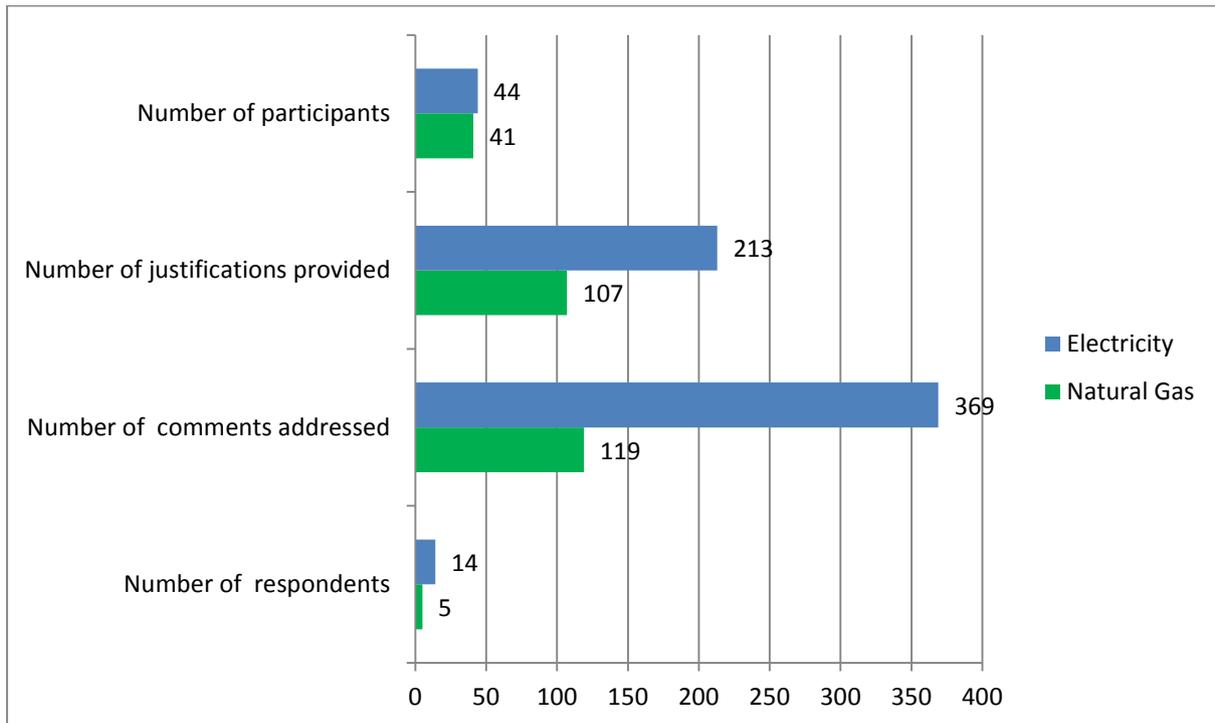


Figure 7: Short term impact indicators

The assessment of indicators above refer to Electricity and Natural Gas tasks of the activity as the amendments of Energy Law were not foreseen to be put on public consultation and there was no time on the workshops devoted specifically to that area of work. It is also worthwhile to mention that the above chart reflects only on the comments received by the national stakeholders and does not include the internal comments/discussions with the Ministry of Economy and neither the comments of the Energy Community Secretariat.

Another interesting discussion may also relate to the observation that one might have by looking specifically on the relationship between “comments addressed” and “justifications provided” in Figure 7 above. This in turn relates to the type of responses that the participants to the consultation have received. We have deliberately selected the consultation on the electricity sector to illustrate the procedure of responding to the consultation since the natural gas consultation was lacking a bit in terms of plurality being dominated by the vertically integrated Moldovagaz.

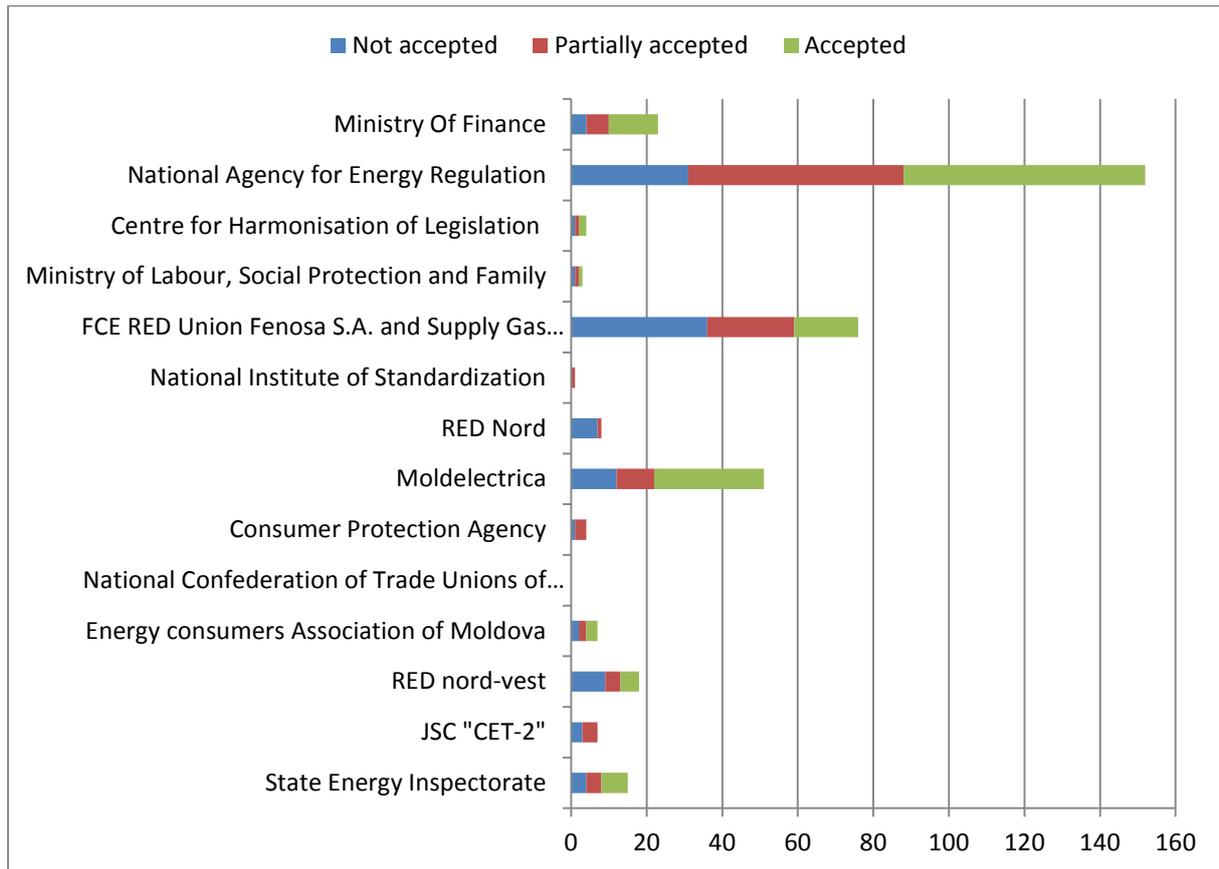


Figure 8: Breakdown of responses to public consultation on draft Electricity Law

The breakdown of responses to participants on the new draft Electricity Law public consultation provides a characteristic illustration of the dynamics of national stakeholders' opinions and validity of their comments. It is plain to observe that the National Regulatory Authority played a dominant role in the consultation process followed by the regulated entities (TSO, DSO, etc.). The contribution of the rest of the respondents should nevertheless not be regarded as of a lesser importance since certain comments coming from no-energy actors (i.e. other Ministries, Consumer Protection Agency, etc.) have decisively contributed to the development of the draft legislation in concise and useful manner. Overall, the consultation process as it has been analysed in this section by means of quantifiable and objectively verifiable indicators can be characterised as pluralistic and valuable for the development of the new electricity and natural gas legislative acts.

2.8 Annexes

Annexes 1-4 are included as separate pdf files

Annex 1: Electricity Law package

Annex 2: Natural Gas Law package

Annex 3: Energy Law package

Annex 4: ITS Workshops

Annex 5: Letter of Appreciation

**MINISTERUL ECONOMIEI
AL REPUBLICII MOLDOVA**



**MINISTRY OF ECONOMY
OF THE REPUBLIC OF MOLDOVA**

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04.12.2015 nr. 06/3-6570
La nr. _____ din _____ 20__

Re.: Completion of activities of the INOGATE assignment titled CWP.01.MD: "Assistance to the Ministry of Economy for the transposition of Directives 2009/72/EC & 2009/73/EC into the national legislation"

Dear Mr. Tourlis,

The Ministry of Economy would like to express its gratitude for the long term and constructive collaboration with the INOGATE Technical Secretariat and for the assistance provided in supporting the energy sector reforms in our country.

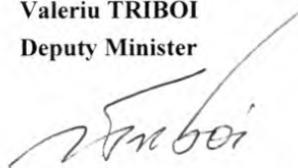
On behalf of the Ministry of Economy of the Republic of Moldova, I would like to acknowledge the assistance offered by the INOGATE Technical Secretariat Project in the framework of CWP.01.MD: "Assistance to the Ministry of Economy for the transposition of Directives 2009/72/EC & 2009/73/EC into the national legislation".

During this assignment the Ministry of Economy of the Republic of Moldova has prepared, with the assistance of the EU-funded INOGATE programme, the necessary draft legal acts and amendments to existing legislation in order to ensure compliance with the requirements of the Energy Community Treaty, as regards to the transposition of Directives 2009/72/EC & 2009/73/EC into the national legislation.

I avail myself of the opportunity to express the assurances of my highest consideration and I am looking forward for a further fruitful cooperation.

Sincerely yours,

Valeriu TRIBOI
Deputy Minister



To: Mr. Nick Tourlis
Electricity Markets/Convergence Expert
INOGATE Technical Secretariat