



REPUBLIKA E SHQIPËRIË
ENERGY REGULATOR AUTHORITY
BOARD

DECISION

No. 162, Dated 20.10.2020

**“ON
APPROVING THE REGULATION ON THE PROCEDURES OF PUBLIC
NOTIFICATION AND CONSULTATION OF THE BY-LEGAL ACT APPROVED BY
ENERGY REGULATOR AUTHORITY”.**

Based on article 16 of Law no. 43/2015 “*On Power Sector*”, as amended; article 16 and 18 of Law no. 102/2015 “*On Natural Gas Sector*”, as amended, article 15 and 26 of the “*Regulation on ERE organization, operation and procedures*”, approved with ERE Board Decision no. 96, dated 17.06.2016, Law no. 146/2014 “*On public notification and consultation*”, ERE Board, on their meeting dated 20.10.2020, after reviewing the report Protocol no.109/6, dated 14.10.2020, of the Legal and Settling the Disputes Directory, “On approving the regulation on the procedures of public notification and consultation”,

Observed that:

- ERE Board with Decision no. 113, dated 09.07.2020 decided: To open the procedure for reviewing and approving the regulation on the procedures of public notification and consultation of the by-legal act approved by Energy Regulator Authority.
- ERE with the official letter Protocol no. 62/19, dated 13.07.2020, published on the written media the notification on opening the procedure to approve this Regulation, inviting all the persons, associations, institutions that are interested on this act to state their opinions and comments by writing.
- ERE with the official letter Protocol no. 996, dated 22.07.2020, requested to the stakeholders to express their comments and suggestions regarding the abovementioned regulation.
- The Competition Authority with the official letter protocol no.279/2, dated 04.08.2020, stated that this regulation does not contradict Law no. 9121, dated 28.07.2003 “On the protection of competition”, as amended.
- The commissioner for the information right and the protection of personal data, with the official letter Protocol no. 922/1, dated 13.08.2020, stated its opinion regarding the approval of the regulation "On the procedures of public notification and consultation of the by-legal act approved by Energy Regulator Authority”, suggesting:

- The reference on Law no. 146/2014 "On public notification and consultation", the Commissioner Office shall be added even on article 1 of the Regulation. This proposal is right.
- After point 1 of article 6 of the Regulation, shall be added even one point regarding the publication of the draft by-legal act on the official website <https://www.konsultimipublik.gov.al/> of the electronic Register for the Public Notifications and Consultations (RENJK). RENJK is approved with Council of Minister Decision no. 828, dated 07.10.2015, "On approving the rules for the establishment and administration of the electronic register for the public notifications and consultations", which is now fully operational and serves as a central consultation point.
- Within the provisions of article 4 Law no. 146/2014 "On public notification and consultation", ERE is subject to restrictions from the publication obligation.
- ERE takes decisions regarding individual or administrative by-legal acts. ERE decisions are object of public consultation in so far it is provided on power and natural gas sectors, but on the other hand based on the above explanations, the provisions of the law for public consultation, ERE is not obliged to publish and consult the acts approved on ERE competence on the electronic register for public notifications and consultations (RENJK).
- Regarding the above mentioned, it is considered reasonable that *after point 1, article 6 of the Regulation to be added another point as follows:*
 - As far as possible and permitted from the effective legislation, ERE shall take the necessary measures to publish the draft by-legal act on the official online website <https://www.konsultimipublik.gov.al/> of the electronic Register for the public notifications and consultations (RENJK).
- The Universal Service Supplier FSHU company, with the official letter Protocol no. 996/5, dated 28.08.2020, approved its content.
- This regulation guarantees a fair and transparent process where all the parties are part of the public consultation of the regulatory acts.

For all of the above mentioned, ERE Board,

Decided:

1. To approve the Regulation on the procedures of public notification and consultation of the acts approved by Energy Regulator Authority (attached to this decision).
2. Legal and Settling the Disputes Directory, shall inform the stakeholders about ERE Board Decision.

This decision enters into force after it is published on the Official Gazette.
About this decision may be required its review by Ere within 7 calendar days and may be complained on Tirana Administrative Court within 30 days from the publication in the Official Gazette.

This decision shall be published on the Official Gazette.

ERE CHAIRMAN

Petrit AHMETI

**REGULATION ON THE PROCEDURES OF PUBLIC NOTIFICATION AND
CONSULTATION OF THE BY-LEGAL ACT APPROVED BY ENERGY REGULATOR
AUTHORITY**

Article 1

Object

This regulation defines the rules on the organization of the public notification and consultation process of the draft by-legal act approved by ERE according to the provisions of Law no. 43/2015 “On Power Sector” as amended, Law no. 102/2015 “On Natural Gas Sector” as amended, as well as Law no. 7/2017 “On the promotion of using the energy from the renewable resources”, Law no. 146/2014 “On public notification and consultation”.

Article 2

Definitions

On this Regulation the terms shall have the meaning as follows:

1. “Individual administrative act” shall mean any will expressed by ERE, in exercising its public operation, to one or several entities individually defined of the law, that establishes, amends, or terminates a concrete legal agreement.
2. “Normative by-legal act” shall mean any will expressed by ERE, in exercising its public operation, regulating the relations defined by the law, setting the general rules of behavior and that does not fail with its implementation.
3. “Stakeholder” shall mean any non-profit organization that represents the interests of a group of legal or natural persons, as well as some other entities affected or interested in the projects subject to public consultation process.
4. “Public consultation” shall mean the collection of the comments and suggestions from the interested parties for the content and improvement of the draft by-legal act from the publication moment of the draft by-legal act to its final approval.
“Public notification” shall mean the official invitation to participate at the consultation process of the proposed draft by-legal act and the initiation of the procedures for public consultation.
5. “Public body” within the meaning of this Regulation the Energy Regulator Entity is the regulator authority of the power and natural gas sector, that operates in conformity with Law no. 43/2015 “On Power Sector”, as amended, Law no.102/2015 “On Natural Gas Sector”, as amended, as well as Law no.7/2017 “On the promotion of using energy from the renewable resources”.
6. “Decision making process” shall mean a process that includes the processes of drafting and approving by ERE of the draft by-legal act.
7. “Draft by-legal act” shall mean the draft of the by-legal act with high public interest, drafted by ERE or responsible entities within the framework of the provisions of Law no.43/2015 “On Power Sector” as amended or Law no.102/2015 “On Natural Gas Sector”, Law 7/2017, which shall be approved by ERE.
8. “Electronic register” shall mean the official website of ERE where shall be published the draft by-legal acts.
9. “Recommendation” shall mean any consultative suggestion, proposal, or comment for the drafted by-legal acts, stated verbally and/or in the written form by the stakeholders.

Approved with ERE Board decision no.162 dated 20.10.2020

10. “Hearing session” shall mean any open meeting with the interested parties to discuss the draft by-legal acts that is subject to the public notification and consultation process, to clarify and inform the public opinion regarding these draft by-legal acts as well as to take the respective comments and recommendations to improve them.

Article 3

Scope

This Regulation shall be implemented for the rules and procedures of public notification and consultation developed by ERE in the decision-making processes which are subject of public consultation process.

Article 4

Restrictions

The provisions of this regulation are implemented in so far they do not contradict with the provisions of Law no. 43/2015 “On Power Sector” as amended, Law no. 102/2015 “On Natural Gas Sector” as amended, as well as Law no. 7/2017 “On the promotion of using energy from the renewable resources”, regarding the procedure and terms provided on it.

Article 5

Obligation for public notification and consultation

1. ERE shall undertake all the necessary measures to enable the public and all the stakeholders participation at the at the public notification and consultation process, including;

a) publication on ERE website of the draft by-legal act and the explanatory report for this draft by-legal act.

b) publication on the transparency program, according to Law no. 119/2014 “For the information right”, of the annual plan regarding the decision-making process of the normative acts;

c) issue of the information regarding the public notification and consultation process at all stages, beginning from the publication of the draft by-legal act, the receive of the comments and recommendations to improve it, organizing the public discussions to the approval of the final act.

2. ERE, after taking the decision to open the procedure for the approval of the by-legal act as well as the publication of the draft secondary legislation on ERE website, may organize direct consultations and public meetings with the stakeholders. The direct consultations and the public meetings with the stakeholders are documented with minutes. The minutes of the public meetings are organized according to this Law, is an official document.

Article 6

Electronic register for the public notifications and consultations

1. Any draft by-legal act approved by ERE shall be published at the electronic register for public notification and consultation on ERE website.

2. As far possible and permitted by the effective legislation, ERE shall take the necessary measures for the publication of the draft by-legal acts online on the official website <https://www.konsultimipublik.gov.al/> of the Electronic Register for the Public Notifications and Consultations (RENJK).

Article 7

Stakeholders

1. The stakeholders at the public notification and consultation process are:
 - a) public bodies interested on ERE decision-making due to the competence field.
 - b) Albanian Republic citizens and the stakeholders.
 - c) natural foreign persons with permanent residence at the Republic of Albania, as well as foreign legal persons, registered on the Republic of Albania.

Article 8

Rights of the stakeholders

The stake holders during the notification and consultation process shall be entitled:

- a) to require information for the public notification and consultation process, including the access on the draft by-legal act.
- b) to submit at ERE within the provided term, the comments and suggestions for the draft by-legal acts in public notification and consultation process.

Article 9

Coordinator for public notification and consultation

ERE shall designate a person as the coordinator for the public notification and consultation, who shall be responsible for the coordination and general administration of the work, to guarantee the public notification and consultation right, provided by the law as well as the obligations to draft the documents and the report shall be published on ERE official website.

Article 10

Notification way and the receive of the comments and recommendations

1. Notification on ERE website of the draft by-legal acts that shall be subject of public consultation procedure shall be;
 - a. notification for organizing the public hearing session on ERE website
 - b. through the electronic register
 - c. through the publication of the draft by-legal act on local newspapers or at two most read newspapers in national level
 - d. notification by post of the stakeholders of the draft by-legal act and the invitation to submit comments or opinions.

Article 11

Content of notification regarding the decision-making initiative

1. At the notification for opening the public consultation process shall be at least defined:
 - a) the necessary reasons to issue the draft by-legal act as well as its impact;
 - b) the term, location and the approach by which the interested parties submit or send their recommendations;
 - c) location and the date of organizing the public meeting if ERE decides for its organization.

Article 12

Term to deliver the comments and recommendations

1. To the stakeholders it is issued a reasonable time to send at ERE their comments and recommendations within 20 working days from the date of notifying the public notification and consultation process.
2. For the complex or important by-legal acts, ERE may extend this term to 40 working days from the notification date.
3. The above-mentioned definitions may not skip the time deadlines defined on power sector law and if the provisions for these terms are missing, shall prevail the terms provided on this article.

Article 13

Extension and repetition of the consultation phase

ERE may extend the term of sending the comments or may repeat again the phase of receiving the comments and suggestions when:

- a) it is not satisfied with the quality of the received comments.
- b) on the comments and recommendations issued are raised important new issues that are not part of the initial consulting.
- c) during the consultation phase, such proposals and comments resulted on the content and form, that amended to a great extent the draft by-legal act.

Article 14

Notification for public meetings

To the stakeholders, invited to participate at the public hearing sessions, it is given the necessary time to prepare. In any case, they are informed not less than 20 working days before the hearing session.

Article 15

Participation at the hearing session

1. Consultation at the public sessions is open.
2. ERE representatives, direct the public Hearing session, in conformity with ERE rules, providing the participants the ability to express their opinion for the discussed issues.
3. Any public meeting is register and are taken minutes, which is protocolled after being clarified.
4. The minutes and registrations of the public meetings may be public according to the submitted request, in conformity with the effective legislation for the information right on official documents.

Article 16

The review of the comments and recommendations

1. The comments and recommendations taken during the public consultation process are collected by the ERE coordinator of public notification and consultation and submit them for handle to the responsible ERE structure depending on the competence field defined on ERE organizational chart.
2. The review of the comments and recommendations is performed by ERE responsible structures for the draft of the by-legal act, which decide to accept or refuse the recommendations issued from the consulted stakeholders.

3. The draft by-legal acts are accompanied with the report of the accepted recommendations, according to the provisions of this law. If the recommendations of the stakeholders are not accepted, then the responsible structure shall submit on the report the reasons for not accepting them.

Article 17

Reports for the transparency at the decision-taking process

1. ERE shall draft and publish the annual report for transparency during the decision-making process, where shall be included the information for:
 - a) the number of the by-legal acts approved by ERE during the referring year.
 - b) total number of the recommendations issued from the stakeholders.
 - c) number of the organized public meetings.
2. The annual report for transparency during the decision-making process shall be published on ERE official website.