



Transelectrica®

Societate Administrată în Sistem Dualist

SUPERVISORY BOARD

Compania Națională de Transport al Energiei Electrice
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To: SHAREHOLDERS' GENERAL ASSEMBLY

NOTE

on changing the form of the mandate contract and updating the remuneration due to the Supervisory Board members

The legal framework regarding the approval of the mandate contract form and setting the remuneration due to the Supervisory Board members is determined by National Power Grid Company Transelectrica – S.A.'s capacity (hereinafter the "Company") of joint stock company, managed under two-tier system under the conditions of art. 153¹ et seq. of Company Law no. 31/1990, republished, with later amendments and additions (hereinafter "Company Law"), by a Directorate and a Supervisory board and the Company's status of *public enterprise* in accordance with art. 2 point 2 let. b) of GEO no.109/2011 *on the corporate governance of public enterprises*, approved with amendments and additions by Law no.111/2016 (hereinafter "GEO no.109/2011").

Regarding the **mandate contract between the Company and the Supervisory Board members**, pursuant to art. 29 para. (11) related to art. 31 para. (3) of GEO no. 109/2011, art. 111 para. (2) letter c) of Company Law and art. 14 para. (1) letter f) of the Articles of Association in force, **the Shareholders' Ordinary General Assembly has the power to approve the form of the mandate contract to be concluded with the Supervisory Board members and any amendments thereto**. The latest form of the mandate contract for the Supervisory Board members was approved by the Shareholders' General Assembly through SGA Decision no. 3/18.04.2022 (point 3 of the decision)¹. The analysis of the provisions of the latest form of the mandate contract approved by the SGA, related to the actual fulfilment of the mandate so far, showed the need for changes either to remove potentially discriminatory² wording or to clarify some other aspects.

Regarding the *remuneration of the Supervisory Board members*, the establishment of this remuneration falls within the competence and at the same time is the obligation of the Shareholders' (Ordinary) General Assembly according to art.111 para. (2) letter c)³ and art.153⁴ para. (1) of Company Law, legal provisions which are also reflected within the Company's Articles of Association in art. 14 para. (1) letter f). Considering that the Company's Articles of Association do not establish the remuneration of the Supervisory Board members, by reference to the applicable legal provisions, it appears that it is established or, as the case may be, amended by SGA decision.

¹ With regard to item 3 on the agenda, with the "for" vote of the shareholders representing 83.06020% of the total number of valid votes cast, the form of the mandate contract to be concluded with the provisional Supervisory Board members is approved as being the one in accordance with the model of the mandate contract submitted through the address of the General Secretariat of the Government no. 20/9679/MN/30.03.2022 (registered with Transelectrica under no. 15287/31.03.2022) and the General Secretariat of the Government's representative in the Shareholders' General Assembly is empowered to sign on the Company's behalf the mandate contracts with the persons appointed as provisional Supervisory Board members.

² Thus, it is necessary to rewrite point 10 of the Annex to the Contract (Integrity Criteria) which in the current wording is not in line with European law, being likely to be discriminatory and to violate the presumption of innocence.

³ In addition to debating other issues on the agenda, the general assembly is obliged:

c) to set the remuneration due for the current year to the management board members, namely to the supervisory board members, and to the auditors, if it has not been established by the articles of association;

⁴ The remuneration of the management board members or of the supervisory board is established by the articles of association or by decision of the shareholders' general assembly.

With regard to the exercise of this power by the SGA, Company Law provides in art. 153¹⁸ para. (4)⁵ SGA's obligation to ensure that **the remuneration is justified in relation to the specific duties of the persons in question and with the company's economic**.

Considering the Company's quality of Public Enterprise, regarding the Supervisory Board members' remuneration, the provisions of the special law are also applicable, namely GEO no. 109/2011.

Thus, the remuneration must be established in a certain structure and certain limits in accordance with art. 37 para. (2) of GEO no. 109/2011:

- *The remuneration of the members (...) of the supervisory board **consists of a fixed monthly allowance** and a variable component.*
- *The **fixed allowance cannot exceed twice the average for the last 12 months of the average gross monthly earnings** for the activity carried out according to the main object of activity registered by the company, at category level according to the classification of activities in the national economy, communicated by the National Institute of Statistics before the appointment.*

Similar to Company Law, GEO no. 109/2011 establishes the task of the SGA, according to art. 37 para. (5), the obligation to *ensure when establishing the fixed monthly allowance of each member of (...) the supervisory board, determined according to para. (2) and (4), that it is justified in relation to the specific duties, the attributions within some consultative committees, with the number of meetings, the objectives and the performance criteria established in the mandate contract.*

In the case of the Supervisory Board members who were not appointed under the conditions of GEO no. 109/2011, both art. 64 para. (3) of GEO no. 109/2011, and art. 14 of Government Ordinance no. 26/2013 on strengthening financial discipline at the level of economic operators in which the state or administrative-territorial units are sole or majority shareholders or directly or indirectly hold a majority stake, regulate the fact that remuneration is established by assimilation with those provided by GEO no. 109/2011 (specifically, the provisions of art. 37), within the budgetary provisions approved at the level of the public enterprise, the same rule being applicable also regarding the **remuneration of interim administrators** [art. 64¹ of GEO no. 109/2011].

The latest remuneration approved by the SGA for the Company's SB members was established by SGA Decision no. 3/18.04.2022 of (point 2 of the decision)⁶, the approved remuneration consisting of a **fixed gross monthly allowance of 13,976 lei**.

The maximum limit of the amount of the fixed allowance in relation to the provisions of art. 37 para. (2) of GEO no. 109/2011 and the data available in July 2022 (until the present date) on the website of the National Institute of Statistics for the evolution of the average gross salary, is twice the average of the average gross monthly salary for category 35 calculated over a period of 12 months (June 2021-May 2022), respectively **17,926 lei**.

Taking into account those presented, we propose to the Shareholders' General Assembly of the Company:

- 1) the modification of the form of the mandate contract** approved according to SOGA Decision no. 3/18.04.2022 (point 3 of the decision), "The Contract", and the corresponding modification of the mandate contracts by concluding an addendum, as follows:

⁵ The general assembly, respectively the management board or the supervisory board and, if applicable, the remuneration committee will ensure, when establishing the remuneration or other benefits, that they are justified in relation to the specific duties of the persons concerned and the company's economic situation.

⁶ Regarding item 2 on the agenda, with the "for" vote of the shareholders representing 83.06020% of the total number of valid votes cast, the remuneration of the Supervisory Board members is established as being calculated according to art. 8 of GEO no. 109/2011, approved with amendments and additions by Law no. 111/2016, with modifications, respectively 13,976 lei gross.

- (a) amendment of point 10 of the Annex to the Contract, the new wording being as follows: "10. He is not criminally convicted, has no criminal record for committing a crime of corruption or an act related to non-compliance with the regime of prohibitions, incompatibilities, conflict of interest or declaration of assets, misappropriation of funds, tax evasion, acts related to the exercise of Supervisory Board membership, or for any other deeds provided by the criminal law";
 - (b) the amendment of letter (g) of clause 5.2 of the Contract with a new point with the following wording: "(g) to reimburse to the TRUSTEE the equivalent value of the expenses incurred in the company's interest, based on supporting documents, under the law and the Company's internal rules. In order to avoid any doubt regarding the participation of the Trustee in the Supervisory Board meeting, in the case of the Trustee whose domicile/permanent residence is at a distance of more than 60 km from Bucharest or, as the case may be, the meeting, at its request, accommodation costs for a number of days equal to the number of days of that meeting.";
 - (c) removing clause 3.1.2 of the Contract.
- 2) updating the fixed allowance of the Company's SB members representing twice the average for the last 12 months of the average gross monthly salary for category 35 communicated by the National Institute of Statistics before appointment, according to legal provisions, respectively its modification from 13,976 lei to 17,926 lei.**

Supervisory Board,

BALACCIU Oana-Cristina

BLĂJAN Adrian-Nicolae

DASCĂL Cătălin-Andrei

DUMITRIU Victor- Florin

ORLANDEA Dumitru Virgil

PĂUN Costin-Mihai

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