### **Energy**

#### Introduction

In the field of energy the Armenian legislation partially complies with the requirements of the EU legislation.

In Armenia there is a single law regulating the sectors of electricity, thermal energy and natural gas, and a separate law for regulation the nuclear energy sector. The EU legislation has separate acts that regulate each of the aforementioned sectors.

The following legislative incompliances in the sectors of electricity and thermal energy, as well as in the sector of natural gas are of general nature:

• The RoA Law on Energy and the relevant secondary legislation do not define all components of the market. The concepts<sup>1</sup> of "electricity production" and "producer of electricity" are not defined by the RoA Law on Energy<sup>2</sup>. The Law on Energy Conservation and Renewable Energy defines "independent energy producer"<sup>3</sup>, but this concept refers only to the producer that produces energy to cover his own needs.

Concepts such as "integrated, consolidated, horizontally integrated undertaking" are not defined. Legal recognition of such undertakings is very important, since in the future both EU's and Armenia's legislations will require differentiation of market players. Separation of the functions of the undertakings is one of the main preconditions for market liberalisation. The secondary legislation of Armenia in the field of energy does not define concepts of "integrated undertakings", as well as "interconnected systems".

The concept of "ancillary services" is not defined by the legislation as well. Players of the market cannot provide ancillary services, e.g. sale of reserve capacity, sale of peak loads, etc.; therefore they are deprived of the opportunity to receive additional legal proceedings. The RoA Law on Energy defines the supply rules, but concepts such as "supply", "supplier", "supply for sale or resale", "electricity for distribution" are not defined.

Classification of users is made merely according to voltage systems, but not according to functional groups (end user, household, industrial consumer, commercial consumer, possible consumer, etc.), therefore the concepts<sup>7</sup> "household", "commercial consumer", "industrial consumer" are not defined. The same classification should be made for thermal energy and natural gas consumer markets. The classification allows the application of differentiated tariffs. It is possible to both classify users and have a single tariff.

The lack of the principle of "universal service" is one of the general incompliances of the legislation regulating the field of energy. The regulatory authority shall provide a

<sup>1</sup>Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity, Article 2; OJ No. L 176, 15/07/2003.

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<sup>&</sup>lt;sup>2</sup> HO-148 (HH PT (Official Journal of the Republic of Armenia) 2001/10 (142) of 22.03.2001)

<sup>&</sup>lt;sup>3</sup> "Independent Energy Producer" is a legal or physical entity producing electricity and (or) thermal energy, biogas for satisfying his own needs. Armenian Law "On Energy Conservation and Renewable Energy", Article 2; HO No. 122-N of 09.11.2004.

<sup>&</sup>lt;sup>4</sup> Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity, OJ No. L 176, 15/07/2003.

<sup>&</sup>lt;sup>5</sup> Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity, OJ No. L 176, 15/07/2003

<sup>&</sup>lt;sup>6</sup> Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity, OJ No. L 176, 15/07/2003

<sup>&</sup>lt;sup>7</sup> Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity, OJ No. L 176, 15/07/2003

<sup>&</sup>lt;sup>8</sup> Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity, OJ No. L 176, 15/07/2003

programme on the application of the principles of universal service. According to these principles, a consumer should be provided with quality and continuous energy supply. Energy should be supplied based on reasonable tariffs, according to clearly defined and simple rules, on transparent and non-discriminatory conditions. A compensation system should be set for supply interruptions. According to the established terms, transmission and distribution system operators must ensure connection of all customers to their grids. These terms should be clearly defined, and the payments of and time needed for connection to the grid should be within reasonable limits.

The principle of universal service also incorporates consumer protection, regulation of supply interruptions and safety. The Armenian energy legislation does not specify a compulsory provision on supply of necessary energy to vulnerable group of consumers<sup>9</sup> (not well-off users and users living in remote areas). The Law authorizes to stop the supply of electricity in case of non-payment. In such cases, the Law should stipulate a compulsory provision on supplying the amount of energy (or natural gas) necessary for ensuring living conditions for vulnerable group of customers.

• Opportunity for third party access is one of the essential conditions for market liberalisation. The RoA Law on Energy provides for the possibility<sup>10</sup> for the third party access, while it does not provide mechanisms for the use of this opportunity. The Law does not specify the conditions of connecting the third party to transmission and distribution grids, as well as procedures for conducting tenders, licensing and relations with other participants of the market.

The RoA Law on Energy does not stipulate a mandatory provision on considering the possibility for third party access in long-term action plans, and, accordingly, providing for relevant infrastructure development plans. The concepts of "vertically and horizontally integrated undertakings" are not defined; therefore the demand for their separation is not defined as well, which is a necessary condition for third party access. The Armenian law does not define a provision on non-prevention of third party access, according to which the permission of access granted to one entity cannot limit the right of another undertaking to apply for and receive the permission of access<sup>11</sup>.

• The RoA Law on Energy does not define the concepts of "long-term" and "short-term" time periods<sup>12</sup> applied in the field. The Government of Armenia should develop a long-term strategy programme (usually for the period of twenty years) for the overall field of energy based on these time periods. The Strategy Programme shall present the objectives of the field and ways to accomplish these objectives by sectors and time periods. The Programme shall clearly specify the current objectives of both the field in general, and each of its sectors in particular.

The RoA Law on Energy does not contain a mandatory requirement according to which the requirements<sup>13</sup> of long- and short-term programmes are enclosed into licenses granted for energy production, transposition and distribution. The periods of license validity or periodical review of licenses should be consistent with the periods specified by the Strategy Programme of the field and supervision should be undertaken in accordance with the defined objectives.

<sup>9</sup> Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity, OJ No. L 176, 15/07/2003

<sup>&</sup>lt;sup>10</sup> HO No. 148, Article 53 (HH PT 2001/10 (142) 22.03.01).

Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity, OJ No. L 176, 15/07/2003

<sup>&</sup>lt;sup>12</sup> Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity, OJ No. L 176, 15/07/2003

<sup>&</sup>lt;sup>13</sup> Decision No. 38 of the Commission on Public Services Regulation of 20.09.01 "On Licenses Granted After Privatisation of Electricity Distribution Grids", HH GNAT (Journal of Agency Prudential Legal Acts of the Republic of Armenia) 2001/16 (79), 20.09.2001

The RoA Law on Energy does not stipulate a requirement for companies operating in the field to submit progress report on environmental protection and efficient use of energy resources<sup>14</sup>.

The Armenian legislation regulating the energy system lacks a requirement on development of a system of energy efficiency and energy saving standards, which is necessary for energy cogeneration<sup>15</sup>

## **Nuclear Energy**

In the field of nuclear energy, the main incompliance is the lack of legal acts regulating relations connected with the compensation of nuclear damage caused to personnel and population of affected communities, including mechanisms related to insurance issues. The process of elaboration of safety standards and rules<sup>16</sup> for protection of the personnel of facilities using nuclear energy, as well as population of affected communities from ionising radiation is not completed.

Regulations related to physical protection of nuclear and radioactive materials, and nuclear facilities are incomplete.

The RoA Law on Safe use of nuclear energy for peaceful purposes does not define the necessary conditions for storing, marking and labelling of radioactive materials. The Government Decree on Special rules for transportation of nuclear and radioactive materials defines labelling, marking and storage conditions for transportation of radioactive materials. Similar conditions should be defined for users and owners of radioactive materials<sup>17</sup>.

### Prudential Rules Inapplicable in Armenia

The EU legislation defines certain rules that are not defined by the Armenian energy legislation, since these rules do not tackle issues related to the Armenian reality. The EU Directive on common rules for the domestic market in electricity defines 12 rules of the kind<sup>18</sup>, i.e. rules on "direct supply wires" or "isolated microsystems". In Armenia there is a unified energy system, and there are no direct supply wires. This is the reason why requirements for their building and operation are not set. Conditions of direct supply from the producer are not established as well.

Within the framework of the programme, it is planned to partially approximate the Chapter "Energy" with the standards set by the EU legislation by the end of 2008. Out of 16 Directives covered by this chapter, only 10 Directives shall be subjected to approximation. The approximation of the Armenian legislation with Directive 96/26<sup>19</sup> of the European Council covered by the Chapter on Energy shall be undertaken within the scope of the

<sup>&</sup>lt;sup>14</sup> Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity, OJ No. L 176, 15/07/2003

Directive 2004/8 of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market, OJ No. L 052, 21/02/2004

<sup>&</sup>lt;sup>16</sup> Directive 96/29 of the European Council of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation, L 159, 29/06/1996

Directive 2003/122 of the European Council of 22 December 2003 on the control of high-activity sealed radioactive

sources and orphan sources L 346, 31/12/2003

18 Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity, OJ No. L 176, 15/07/2003

<sup>&</sup>lt;sup>19</sup> Directive 96/29 of the European Council of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation

subchapter on "Social Protection". From 2009 other five Directives shall be approximated. These Directives include:

- Directive 2003/55 of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas;
- Regulation 2003/1228 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity;
- Directive 90/377 of the European Council of 29 June 1990 concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users;
- Regulation 2422/2001 of the European Parliament and of the Council of 6 November 2001 on energy efficiency labelling programme for office equipment;
- Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings.

#### Y2007

Taking into account the importance of the overall regulation of the energy infrastructure, the Armenian energy legislation shall be approximated with the Directive  $2004/67/EC^{20}$  of the European Council of 26 April 2004, Directives of the Council  $68/414/EEC^{21}$  of 20 December 1968,  $2003/122^{22}$  of 22 December 2003, and Directive  $2004/8^{23}$  of the European Parliament and of the Council of 11 February 2004.

In particular, in accordance with Directive 2004/67/EC of the European Council of 26 April 2004, a draft Decision of the Public Services Regulatory Commission (PSRC) on Approval of the rules for supply and use of natural gas shall be developed. The Decision No. 95 of 8 July 2005 of the Public Services Regulatory Commission on Provisional rules for supply and use of natural gas shall serve as the basis for elaboration of the draft Decision.

In compliance with Directive 68/414/EEC of the European Council of 20 December 1968, a draft law on Maintaining necessary stock of crude oil and petroleum products shall be elaborated to ensure safety of energy market and to manage emergency situations in the market. Furthermore, a draft Government Decree on Approval of procedures for use of stock of crude oil and petroleum products in states of emergency shall also be elaborated.

A draft decree on making amendments to the Government Decree No. 765 of 16 August 2001 on Approval of rules for state registration of sources of ionizing radiation shall be elaborated in order to approximate the state regulation and management of the sources of ionising radiation with the Directive 2003/122 of the European Council of 22 December 2003.

To strengthen institutional capacities, training courses shall be organised on the following subjects: Economic and legal support of reforms in natural gas market, System of safety standards for protection of personnel and population health from damage caused by ionising radiation, and Energy safety and diversification.

<sup>&</sup>lt;sup>20</sup> Directive 2004/67/EC of the European Council of 26 April 2004 concerning measures to safeguard security of natural gas supply

supply
<sup>21</sup> Directive 68/414/EEC of the European Council of 20 December 1968 imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and/or petroleum products

<sup>&</sup>lt;sup>22</sup> Directive 2003/122 of the European Council of 22 December 2003 on the control of high-activity sealed radioactive sources and orphan sources

<sup>&</sup>lt;sup>23</sup> Directive 2004/8 of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market

A draft PSRC decision on technical procedure for energy cogeneration shall be elaborated in order to define effectiveness of energy production and the demands for energy conservation in accordance with Directive 2004/8 of the European Parliament and Council of 11 February 2004.

#### Y2008

The Armenian legislation on energy shall be approximated with Directives  $94/22^{24}$  of the European Parliament and Council of 30 May 1994,  $2003/30/EC^{25}$  of the European Parliament and Council of 8 May 2003,  $736/96^{26}$  of the European Parliament and Council of 22 April 1996, and  $2001/77^{27}$  of the European Parliament and Council of 27 September 2001.

In compliance with Directive 94/22 of the European Parliament and Council of 30 May 1994, a draft law on Extraction, exploration and production of hydrocarbons in the territory of Armenia shall be elaborated in order to regulate activities for hydrocarbons extraction, exploration and production in the Republic of Armenia. Furthermore, a draft Government Decree on Licensing of activities for hydrocarbons extraction, exploration and production in the territory of Armenia shall be elaborated to grant permission for engagement in these activities.

Taking into account the problems of nature protection and the fact that Armenia joined the Convention on Climate Change and Greenhouse Gas Emissions (Kyoto Protocol), a draft Government Decree on the promotion of the use of biofuels or other renewable fuels for transport shall be developed on the basis of the Directive 2003/30/EC of the European Parliament and Council of 8 May 2003.

In order to coordinate and approximate the investments in the field of energy between the Government of Armenia and the European Union, a draft decision on making amendments to the PSRC decision No. 56-N of 5 December 2004 on Approval of procedures for coordination of investment projects shall be developed on the basis of the Regulation 736/96 of the European Council of 22 April 1996.

To strengthen the institutional capacities, training courses shall be conducted on "Promotion of safety of hydrocarbons extraction and production" and "Use of biofuels or other renewable fuels for transport".

Given the importance of safety of the energy market, differentiation of sources of energy, as well as in an effort to implement a "clean development mechanism", according to the Convention on Climate Change and Greenhouse Gas Emissions (Kyoto Protocol), a draft law on making amendments to the RoA Law on Energy conservation and renewable energy shall be elaborated. The draft law shall be elaborated in accordance with the Directive 2001/77 of the European Parliament and Council of 27 September 2001.

In accordance with the amendments made to the RoA Law on Energy conservation and renewable energy, a draft PSRC decision on the approval of rules for use of electricity produced from renewable sources of energy shall be elaborated.

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<sup>&</sup>lt;sup>24</sup> Directive 94/22 of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons

<sup>&</sup>lt;sup>25</sup> Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport

<sup>&</sup>lt;sup>26</sup> Regulation 736/96 of the European Council of 22 April 1996 on notifying the Commission of investment projects of interest to the Community in the petroleum, natural gas and electricity sectors

<sup>&</sup>lt;sup>27</sup> Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market

#### Y2009

The legislation of Armenia shall be approximated with the Regulation 3227/76<sup>28</sup> of the European Council of 19 October 1976 and Directive 2003/54<sup>29</sup> of the European Parliament and Council of 26 June 2003.

In order to define the safety conditions for Armenian internal market of nuclear energy, a draft law on making amendments to the RoA Law on Safe use of nuclear energy for peaceful purposes shall be elaborated in compliance with the requirements of EURATOM. The draft law will be elaborated on the basis of the Regulation 3227/76 of the European Commission of 19 October 1976.

In compliance with the draft law on making amendments to the RoA Law on Safe use of nuclear energy for peaceful purposes, two draft decrees of the Government of Armenia shall be elaborated, namely: "On Approval of standards of protection from ionizing radiation and safety of sources of ionising radiation" and "On Approval of rules for protection from ionizing radiation and safety of sources of ionising radiation".

In compliance with the EU legislative requirements and to liberalise and ensure competition in the Armenian internal market in electricity, draft laws on making amendments to the RoA laws on Energy and on Safe use of nuclear energy for peaceful purposes shall be developed in accordance with the Directive 2003/54 of the European Parliament and Commission of 26 June 2003. Furthermore, a draft PSRC decision on Approval of rules for market in electricity shall be elaborated.

For strengthening of institutional capacities, training courses shall be conducted on "Organisation of energy cogeneration", "Economic and legal support to the reforms in electricity market" and "Provisions of EURATOM Safeguards for domestic market".

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<sup>&</sup>lt;sup>28</sup> Regulation 3227/76 of the European Commission of 19 October 1976 concerning the application of the provisions on EURATOM safeguards

<sup>&</sup>lt;sup>29</sup> Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity

# 1. Legislative Approximation

NN	Measure	EU Legislative Source	Responsible Institution	Submission Date	Required Resources (man/days)	EU Technical Assistance
	1	2	3	4	5	6
		2007				
1.	Elaboration of a draft Decision of Public Services Regulatory Commission (PSRC) on Rules for Supply and Use of Natural Gas in the territory of Armenia based on the Decision No. 95 of 8 July 2005 of the Public Services Regulatory Commission on Provisional Rules for Supply and Use of Natural Gas in the territory of Armenia	Directive 2004/67/EC of the European Council of 26 April 2004 concerning measures to safeguard security of natural gas supply	Public Services Regulatory Commission of Armenia	2 <sup>nd</sup> quarter	132	Provisional expertise Consultancy
2.	<ul> <li>Elaboration of a draft Law on Maintaining the Minimum Stock of Crude Oil and Petroleum Products</li> <li>Elaboration of a draft Government Decree on Approving the procedures for Use of Stock of Oil and Petroleum Products in State of Emergency</li> </ul>	Directive 68/414/EEC of the European Council of 20 December 1968 imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and petroleum products	Ministry of Trade and Economic Development of Armenia (Ministry of Finance and Economy of Armenia)	2 <sup>nd</sup> quarter	30	
3.	Elaboration of a draft decree on making amendment to the Government Decree No. 765 16 August 2001 on Approval of the Procedure for State Registration of Sources of Ionizing Radiation of	Directive 2003/122 of the European Council of 22 December 2003 on the control of high-activity sealed radioactive sources and orphan sources	Ministry of Nature Protection of Armenia	2 <sup>nd</sup> quarter	27	Provisional expertise Consultancy training
4.	Elaboration of a draft PSRC decision on technical procedure for Energy Cogeneration	Directive 2004/8 of the European Parliament and of the Council of 11 February	Public Services Regulatory Commission of Armenia (Ministry of Energy of	3 <sup>rd</sup> quarter	72	Provisional expertise Consultancy,

NN	Measure	EU Legislative Source	Responsible Institution	Submission Date	Required Resources (man/days)	EU Technical Assistance
		2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market	Armenia, Ministry of Trade and Economic Development of Armenia			training
		261				

		2008				
5.	<ul> <li>Elaboration of a draft law on prospection, exploration and production of hydrocarbons in the territory of Armenia</li> <li>Elaboration of a draft Government Decree on granting and using authorizations for the prospection, exploration and production of hydrocarbons in the territory of Armenia</li> </ul>	Directive 94/22 of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons	Ministry of Nature Protection of Armenia Ministry of Energy of Armenia	1 <sup>st</sup> quarter	200	Provisional expertise Consultancy
6.	Elaboration of a draft Government Decree on the promotion of the use of biofuels or other renewable fuels for transport	Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport	Ministry of Transport and Communication of Armenia (Ministry of Nature Protection of Armenia)	2 <sup>nd</sup> quarter	30	Provisional expertise Consultancy
7.	Elaboration of a draft decision on making amendments to the PSRC decision No. 56-N of 5 December 2004 on Approval of procedures for coordination of investment projects	Regulation 736/96 of the European Council of 22 April 1996 on notifying the Commission of investment projects of interest to the Community in the petroleum, natural gas and electricity sectors	Public Services Regulatory Commission of Armenia (Ministry of Energy of Armenia, Ministry of Trade and Economic Development of Armenia,	2 <sup>nd</sup> quarter	15	Provisional expertise Consultancy

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8.	•	Elaboration of a draft Law on making amendments to the RoA Law on Energy		Ministry of Finance and Economy of Armenia)  Ministry of Energy of Armenia	4 <sup>th</sup> quarter	270	Provisional expertise
	•	Conservation and Renewable Energy Resources Elaboration of a draft PSRC decision on the Approval of the rules for use of electricity produced from renewable sources in electricity market	the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market	(Public Services Regulatory Commission of Armenia)			Consultancy
			TOTAL			515	

		2009				
9.	Elaboration of a draft law on making amendments to the RoA laws on Energy and on Safe use of nuclear energy for peaceful purposes Elaboration of a draft Government Decree on Approval of the procedures for establishing the rules for protection from ionizing radiation and safety of sources of ionizing radiation	European Commission of 19 October 1976 concerning the application of the provisions on EURATOM safeguards	Ministry of Nature Protection of Armenia	1 <sup>st</sup> quarter	72	Provisional expertise Consultancy by an expert in EURATOM internal market safeguards

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10.	•	Elaboration of a draft Law on making amendments to the RoA Law on Energy Elaboration of a draft Law on making amendments to the RoA law on Safe use of nuclear energy for peaceful purposes Elaboration of draft PSRC decision on Approval of rules for Market in Electricity	European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in		2 <sup>nd</sup> quarter	792	Provisional expertise Consultancy
	TOTAL						
	TOTAL						

# 2. Institutional Capacities

N/N	Institution	Reorganisation	Training Needs	Technical Assistance Required
	1	2	3	4
1.	RoA Ministry of Energy  Public Services  Regulatory Commission of Armenia		Training courses on Energy safety and diversification (3 days / 2007)	
	RoA Ministry of Trade and Economic Development			
2.	RoA Ministry of Energy  Public Services  Regulatory Commission of Armenia		<ul> <li>Training courses in Economic and legal support to the reforms of the market in natural gas (5 days / 2007)</li> <li>Training courses in Promotion of Energy Cogeneration (5 days/2009)</li> <li>Training courses in Economic and legal support to the reforms of the market in electricity (5 days/2009)</li> </ul>	
3.	RoA Ministry of Energy  RoA Ministry of Nature  Protection		Training courses in Ensuring safety of hydrocarbons extraction and production (5 days / 2008)	
4.	RoA Ministry of Energy  RoA Ministry of Transport and Communication  Public Services Regulatory Commission of Armenia		Training courses on the Use of biofuels or other renewable fuels for transport (3 days / 2008)	

N/N	Institution	Reorganisation	Training Needs	Technical Assistance Required
5.	RoA Ministry of Energy	-	<ul> <li>Training courses in System of safety standards for protection of personnel and population health from damage caused by ionizing radiation (5 days/2007)</li> <li>Training courses in Provisions on EURATOM safeguards (3 days / 2009)</li> </ul>	