

CMS România | Romania revises legal provisions for social protection of energy consumers



In response to the rising cost of international electricity and gas markets and their effects, the Romanian government issued Emergency Ordinance 3/2022 (GEO 3), published in the Official Gazette no. 79 on January 26, and amending and supplementing Government Emergency Ordinance no. 118/2021 (GEO 118) on establishing a compensation mechanism for electricity and natural gas consumption for the period 1 November 2021 to 31 March 2022.

Both GEOs establish a support mechanism for the payment of bills related to the consumption of electricity and natural gas by granting a monthly compensation to household customers and other final customers, such as small and medium companies, individual medical practices and other liberal professions (regardless of the form of organisation) authorised natural persons, individual enterprises, family enterprises, public and private hospitals, schools, kindergartens, NGO's, etc.

GEO 118 has targeted household customers whose maximum consumption during the winter period does not exceed the level of 1500 kwh for electricity and 1000 cubic meters of gas. These thresholds are now increased to 1900 kwh, respectively to 1200 cubic meters. According to GEO 3, for consumption between 1 February and 31 March 2022, the prices for electricity and natural gas are capped in the following ways for household customers:

- the final invoiced price of electricity is capped at a maximum of RON 0.8/kWh, VAT included (approximately EUR 0.162) of which the price component of electricity will be worth a maximum of RON 0.336 /kWh;
- the final invoiced price of natural gas is capped at a maximum of RON 0.31/kWh, VAT included (approximately EUR 0.063) of which the price component of natural gas will be worth a maximum of RON 0.200 /kWh.

The difference between the weighted average price for the contracts in progress with delivery between 1 November 2021 and 31 January 2022 and the maximum ceiling price of electricity and natural gas will be compensated from the state budget through the budget of the Ministry of Energy. Each month, suppliers of electricity and natural gas must submit supporting documents to the National Energy Authority (ANRE) in order to claim this compensation. ANRE will establish the value of compensation for each supplier within 30 days. It will then submit the information to the Ministry of Energy, which will make the compensatory payments to the suppliers within 15 days.

Suppliers that fail to comply with the embedded provisions will be sanctioned with fines of between RON 20,000 (EUR 4,000) and RON 200,000 (EUR 40,000).

The GEO 3 also provides for remedial actions for final customers affected by incorrect invoices issued by suppliers. These actions include the recalculation of the invoices within 15 days and refunds for the differences erroneously established and paid to electricity or natural gas suppliers (i.e. the distribution operators who resell electricity to the final customers) within a reasonable time that cannot exceed five calendar days from the date of a finding. GEO 3 prohibits the charging of penalties or stopping the supply of energy for non-payment of erroneously issued invoices.

Law no. 259/2021 implements a windfall tax of 80% regarding GEO 118, which is another important provision that impacts electricity producers. During the application of GEO 118, additional income generated by electricity producers resulting from the difference between the average monthly selling price of electricity and the price of RON 450 /MWh will be taxed at 80%.

This tax must be declared and paid by electricity producers each month until the 25th day of the month following the month when this tax is due. An exception was made for the period from 1 November to 31 December 2021, for which the tax has been declared and paid until 25 January 2022.

For more information on these ordinances and opportunities in the Romanian energy sector, contact your CMS client partner or local CMS experts: **Varinia Radu**, **Ramona Dulamea** and **Raluca Diaconeasa**.