# CMS | Romania extends measures against high electricity and gas prices

**Further to the decision to subsidise rising electricity and gas prices prior to the cold season (*Romania caps electricity gas prices imposes windfall tax for producers (cms-lawnow.com)*), which was revised last month ( *Romania revises legal provisions for social protection of energy consumers (cms-lawnow.com)*), on 22 March the government enacted a new Emergency Ordinance designed to revisit protectionist measures against high gas and electricity prices (GEO 27).**

The provisions are temporary and refer to measures applicable to end-clients in the electricity and gas market between 1 April 2022 and 31 March 2023. These measures are intended to secure protection for vulnerable consumers and to overcome the hurdles caused by the COVID-19 pandemic, which affected various sectors now facing high energy/gas costs.

Thus, from 1 April 2022 to 31 March 2023 the final prices charged by electricity suppliers and electricity-distribution operators for the resale of electricity will be:

 maximum RON 0.68/kWh, VAT included, in the case of household customers whose average monthly consumption achieved at the place of consumption in 2021 was less than or equal to 100 KWh;

 maximum RON 0.8/kWh, VAT included, in the case of household customers whose average monthly consumption achieved at the place of consumption in 2021 was between 100 kWh and 300 KWh inclusive;

 maximum RON 1/kWh, VAT included, in the case of non-household customers.

For consumption between 1 April 2022 and 31 March 2023, the final price invoiced by natural gas suppliers will be:

→ maximum RON 0.31/kWh, VAT included, in the case of household customers;

→ maximum RON 0.37/kWh, VAT included, in the case of non-household customers whose annual natural gas consumption achieved in 2021 at the place of consumption is at most 50,000 MWh.

The supplier must notify customers on the changes mandated by GEO 27 in the first invoice sent after 22 March 2022.

To cover the additional costs related to technological consumption generated by the increase of prices on the wholesale market over the value taken into account by the regulatory authority (ANRE) in calculating electricity and natural gas transmission and distribution tariffs from 2021, ANRE must increase these regulated tariffs, with applicability starting on 1 April 2022. These new tariffs are meant to cover grid losses incurred for 2021 (since both gas and electricity distributors have experienced increased costs due to grid losses). These tariffs will remain unchanged during the applicability of GEO 27.

The regulated tariffs for the transmission and distribution of electricity and natural gas will be amended to reflect costs incurred until 31 March 2023 by transmission and distribution operators of electricity and natural gas for a period of up to five years after 31 March 2023.

The GEO appears to suspend the centralised market obligation for gas market participants (*New regulations on the natural gas market - Romania (cms-lawnow.com)*) from 1 April until 31 December 2022, but also includes obligations to onshore and offshore gas producers for allocating gas sales volumes against a predefined price to secure household consumption or for the production of thermal energy. The selling price is set at RON 150/MWh for the volumes designed to secure household consumption needs or for the storage obligation that has been reintroduced for gas suppliers to secure 30% of the consumption needs. The gas-selling price is set at RON 250/Mwh for gas volumes sold by onshore and offshore producers to thermal energy producers or their suppliers for the gas quantities required for household consumption.

Supplier margins are regulated at RON 12/MwH for gas and at RON 73/MwH for electricity.

There are also imposed obligations for onshore and offshore producers to offer gas if required by the TSO/DSOs for their technological consumption needs.

Incentives are also provided for:

→ revenues related to gas volumes falling under GEO 27 provisions are exempted from the computation of the windfall tax applicable to gas producers (ranging from 60% to 80% for gas prices higher than RON 85/MwH);

→ gas volumes falling under GEO 27 provisions will be subject to a differentiated royalty to be decided by the National Agency for Mineral Resources within ten days;

→ compensation for suppliers for gas and electricity prices invoiced to end clients to be supported from the state budget or Ministry of Energy budget (although the initial market reaction argues that supplier losses are not fully assessed and addressed by GEO 27).

From a distributor's perspective, gas and electricity could face increased costs related to grid losses.

Sanctions are severe ranging between EUR 80,000 and 1% to 5% of annual turnover.

GEO 27/2022 also prolongs the applicability of the 80% windfall tax set in November 2021 until 31 March 2023.

The windfall tax is meant to be an additional tax for the extraordinary revenues received by electricity producers due to high electricity costs.

New capacities commissioned following the effective date of GEO 27 are exempted from the windfall tax, as are the already exempted categories (e.g. biomass, cogeneration, fossil fuels) under Law 259/2021.

That the 80% tax applied to electricity producer additional revenues (based on the difference between the monthly average selling price of electricity and RON 450/MWh) previously lacked a computation method has raised significant concern within the market. GEO 27 now provides a detailed computation on net revenues taking into account costs customarily attributable to RES producers (i.e. costs to secure energy from the market). The relevant provisions appears to apply retroactively the computation rules set forth in them by extending to the period from 1 November 2022 to 1 April 2022. This aims to solve the lack of clarity surrounding this tax computation.

Regarding the windfall tax, the market has already criticised GEO 27 for its medium-to-long-term effects on investment and on market volatility, especially in the new context of security of supply. Following the 2nd EU Communication 2022/108 (REPowerEU), the market was under the legitimate expectation that the new measures will be in line with the “toolbox” provided by the EC (i.e windfall tax on excess profit versus on ‘extraordinary” revenues to be temporarily applied in 2022).

The measures are quite “fresh” and the market is still arguing against a windfall tax on revenues. The prolonged measures, however, are in the early stages and the market is still expected to react.Initial market reactions are still being awaited in terms of implementation and medium-to-long-term implications.

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