



Tonucci & Partners

in collaboration with



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**MEMO**

Renewables in  
Romania: Regulatory  
Framework  
Highlights

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## Significant changes to the green certificates support scheme in Romania

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The Law no. 220/2008 on the **promotion of electricity from renewable sources**, already subject matter of numerous adjustments and changes since its entry into force in 2008 and subsequent approval by the European Commission in July 2011, is once again the focus of public attention due to a draft of emergency ordinance released by the Romanian Government for consultation purposes at the end of last year (the “GEO Draft”).

The regulatory decision was analysed and endorsed by the Competition Council and the Regulatory Authority for Energy.

The Ministry of Energy has published a draft bill that brings major amendments to the renewable energy law no 220/2008, including **new price limits and changes to the transaction regime of the green certificates, which represents one of the main sources of income for the renewable energy producers in Romania.**

The European Commission’s Decision approving the changes to the support scheme was obtained by the Romanian authorities on 19 December 2016.

Thus, the Government proposes the instauration of an annual obligation for the acquisition of a constant number of green certificates for a 15 years period starting in 2017. This option was selected by an inter-institutional group comprising representatives of the Ministry of Energy, the Ministry of Finance, the energy sector regulator ANRE, the energy stock exchange OPCOM, the Competition Council and grid operator Transelectrica.

There was also a second scenario that included the acquisition of a fixed quota, respectively 90 percent of the total number of green certificates which are issued and reinserted yearly. The two scenarios were based on a report made by the London-based Economic Consulting Associates which was presented to the Ministry of Energy and the European Bank for Reconstruction and Development.

On March 31st the Government approved the GEO Draft and issued the Government Emergency Ordinance (O.U.G.) no. 24/30.03.2017 (the “GEO”). The following points are particularly noteworthy for the functioning and trading of the green certificates market:

- a. the extension of the temporary suspension from trading of a certain number of green certificates for solar energy until 31 December 2024; additionally, the placing on the market of the suspended green certificates issued for wind and hydro energy will occur from January 1st 2018 to 31 December 2025, while those issued for solar energy and suspended between 2013-2024 will be placed on the market during the period 1 January 2025 – 31 December 2030;



- b. the determining of the annual mandatory acquisition quota of green certificates by taking into account a so-called "static quota" of green certificates with the purpose of setting up a more equitable distribution of costs between producers and end-consumers; the yearly static quota is defined as the amount of green certificates estimated to be issued during 2017-2031 (including the green certificates temporary suspended from trading during 2013-2024), divided by the number of years left until the end of the scheme; such yearly static quota is subject to revision/update by ANRE every two years, depending on the quantity of green certificates that has been concretely issued prior to such revision;
- c. the static quota for April – December 2017 was set at 11.233.667 GC, value approved by ANRE order no. 27/31.03.2017 after the GEO. was issued; the mandatory quota of green certificates estimated for April – December 2017 calculated based on the static quota is of 0,358 GC/MWh; For the period January – March 2017, ANRE shall establish the mandatory quota of green certificates based on the quantity of electricity produced from renewable energy sources and on the final consumption record calculated between 1 January 31 March 2017;
- d. the medium impact on the invoices issued by the energy suppliers to end-consumer is capped at EUR 11.1/MWh; effectively, to the extent that ANRE acknowledges that the impact on the end consumer exceeds the aforementioned threshold, it will recalculate the annual mandatory acquisition quota by decreasing the percentage thereof;
- e. the validity period of the green certificates is extended for a period exceeding their current validity of 12 months, which is to say all the green certificates issued after 1 April 2017 and also all the suspended green certificates issued as of 1 July 2013 shall be valid until 31 March t 2032;
- f. all the green certificates issued after 1 April 2017 shall be considered "assets" entered into the patrimony of electricity producers only after their trading and no longer upon issuance; The green certificates issued before the entry into force of the GEO have the legal regime applicable on their date of issuance.
- g. producers and suppliers shall be parties to agreements for the sale of green certificates only on centralized markets managed by OPCOM. The GEO creates two new markets: The Anonymous Centralized Market of Green Certificates and The Centralized Market for Energy from Renewable Sources Sustained by Green Certificates. These two Markets shall be implemented by OPCOM starting on 1 September 2017. Moreover, producers and suppliers are forbidden from entering into addendums to already concluded bilateral agreements for the sale and purchase of green certificates extending the validity of such agreements or the number of the traded green certificates;
- h. on the current Centralized Market of Bilateral Contracts of Green Certificates all the contracts that concluded from 1 April 2017 must have the maximum validity period not exceeding 1 August 2017;



- i. only one transaction per green certificate is permitted, with exclusion of cases of deficits of green certificates at the level of producers parties to a bilateral agreement for the sale of green certificates.

For further assistance on the above and in general on any related aspects, please do not hesitate to contact us.

\* \* \*

Kind regards,

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*Tonucci & Partners has a significant experience in the field of energy law, including both renewable energy and oil & gas. We assist our Clients through a multidisciplinary approach involving a coordinated team of lawyers drawn up from different practice.*

*We have an excellent experience in the renewable energy sector, having assisted foreign and domestic operators in important deals in Italy and in the Balcanic area through our offices located in Romania and Albania, where we have been operating since 1995.*

*Our expertise in the energy field includes among other things the following activities:*

- *Assistance before the relevant national and local authorities in the administrative proceedings for the authorization of renewable energy plants, including biomass, wind farm and solar plants, according to Italian national and regional energy law and regulations*
- *Assistance in merger and acquisition transactions involving energy companies*
- *Assistance in negotiating and drafting power purchase agreements*
- *Assistance in negotiating and drafting EPC contracts*
- *Assistance in conducting due diligence on energy law aspects of relevant transactions*
- *Assistance in negotiating and drafting O&M contracts*
- *Assistance in project finance and leasing transactions relating to the construction and operation of renewable energy plants, including wind, solar, hydroelectric and biomass plants*
- *Assistance and representation before Italian Civil and Administrative Courts e.g. to challenge the Italian Energy Authority resolutions or competitors' initiatives.*

*We also have a particularly important experience in the privatization of state-owned companies operating in energy sector both in Italy and abroad.*

# Because we care

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