



A F E E R
Asociația Furnizorilor de Energie Electrică din România

To: **Mrs Edith Hofer**, Policy Officer- Internal Market
DG Energy

Regarding: negative consequences generated on the Romanian electricity market by implementation of the new legal provisions of the Law 123/2012 – Energy and Gas Law, Title I

Dear Mrs. Hofer,

As we have previously informed you, in July the Parliament of Romania adopted the Energy and Gas Law no.123/2012 that brought significant changes on the local electricity market, some of them generating huge barriers as concerns the integration of Romanian electricity market in the European one.

The Romanian Wind Energy Association and Association of Energy Suppliers in Romania took active steps in order to emphasize the negative consequences generated on the market by implementation of the new legal provisions of the Law 123/2012 – Energy and Gas Law, Title I. In this respect please find attached the materials elaborated by these associations and used as support for their actions.

The aforementioned associations hereby submit three documents:

- Memo addressed to the Prime Minister indicating the necessity to modify articles 23 and 28 from the Energy and Gas Law, as the market is practically frozen in the absence of the bilateral contracts traded directly or on OTC platforms and with the imposition to exclusively trade through OPCOM. In addition both associations stressed the idea that the principle of transparency is totally agreed and in this respect they are open to submit to the competent authorities relevant contractual details as: quantities, prices and delivery periods.
- Draft of Emergency Ordinance agreed within a working group formed by representatives of the aforementioned associations, Foreign Investors Council, National Regulatory Authority in the Energy Sector, Electricity Market Operator SC OPCOM SA and Ministry of Economy, Trade and Business Environment. All the negotiations lasted about two weeks. The last session took place under the presidency of Prime Minister' State Counsellor, Remus Cernea, on October 2nd, 2012.
- Draft of the Emergency Ordinance as it was elaborated by representatives of Ministry of Economy, Trade and Business Environment



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We would like to clarify that currently persists a false perception according to which precedents concerning the bilateral transactions of 'smart guys' are strictly linked with a legal framework that would allow directly negotiated bilateral contracts. However the current version of the law does not resolve this aspect, as one of the contracts with the 'smart guys' was concluded on OPCOM and at this moment is under investigation at the European Commission.

Therefore authorities strove for an appropriate legislation aimed at excluding such situations in the future, but in their attempt to do this, they induced blockages both of investments in the electricity sector and of the market itself, fact that totally contravenes to the market liberalization.

At present, renewables producers cannot conclude a PPA, which results in a financing impossibility and therefore in a delay in implementing E-RES and reaching the country's targets.

Because of only one state owned player involved in the aforementioned transactions it is not normal to restrict direct negotiation as a trading method at a general level.

Currently in the media all the actors from the energy sector are assimilated to the *smart guys*, fact that affects the activity of companies committed to the Romanian market that heavily invested in and supported the Romanian economy.

The Romanian authorities are fearful that an eventual law modification could generate a hostile reaction of the European Commission and International financial bodies. Due to the huge obstacles raised in the market, it would be very useful to get a feedback from the Commission in this respect.

As a representative of DG Energy, we kindly ask for your intervention in the actions of the Romanian authorities to draw an electricity law that reflects the best practices and is coherent with the European legal framework and an electricity market eligible to be integrated at the EU level.

Kind regards,

Romanian Wind Energy Association

Ionel David - President

Association of Energy Suppliers in Romania

Ion Lungu - President