

Briefing

3 July 2018

Romania - new changes to the renewables incentives scheme

Background

Romania implemented a support system for renewable energy based on green certificates (GCs) granted free of charge to producers of electricity from certain renewable energy sources (hydropower <10 MW, wind, solar, biomass, landfill gas and sewage treatment plants), and an obligation imposed on electricity suppliers to acquire a certain number of GCs.

Recognizing the stringent need to reform the legislation to avoid the collapse of the renewable energy sector, while still maintaining a balance between the level of affordability of the consumers and the financial effort of the producers in keeping their renewable energy production facilities operational, last year the GCs support scheme was heavily revised through the Emergency Governance Ordinance No. 24/2017 (**EGO 24/2017**) amending the Renewable Energy Law No. 220/2008. For details, please see our newsletter: [Romania – amendments to the renewables incentives scheme aimed to save the renewable energy sector from collapse](#).

On 26 June 2018, the draft Law for the approval of EGO 24/2017 (**Draft Approval Law 2018**) was approved by the Chamber of Deputies. The Draft Approval Law 2018 contains a series of amendments to the recently revised GCs support scheme - key changes are summarized below.

Calculation of mandatory GCs quota / Impact on consumers to increase

The GCs support scheme is based on the obligation of certain market participants to purchase a certain number of GCs from the green energy producers (**Mandatory GCs Acquisition Quota**) - ultimately, the cost of the GCs is borne by the consumers, as invoiced by their suppliers proportionally with the consumed electricity. Following the amendments introduced by EGO 24/2017, as of 31 March 2017 the method for calculation of the Mandatory GCs Acquisition Quota is based on (i) a so-called "fixed annual quantity of GCs" (calculated as the total quantity of GCs estimated to be issued until closing of the support scheme in 2031 (including the GCs postponed to trading during 2013-2024) divided to the number of years remaining from the support period) and (ii) the final electricity consumption, without exceeding an average impact of EUR 11.1/MWh in the invoice of final consumer.

The Draft Approval Law 2018 eliminates the previously introduced factor of "fixed annual quantity of GCs" from the calculation of the Mandatory GCs Acquisition Quota and proposes a determination of the quota based on the final electricity consumption and a pre-determined annual average impact of the GCs in the invoice of final consumers.

In more details: every December, the Energy Regulatory Authority of Romania (ANRE) determines the estimated Mandatory GCs Acquisition Quota for the next year, taking into account the estimated final electricity consumption for that year, so that the annual average impact in the invoice of the final consumer is equal to 12.5 EUR/MWh in 2019, 13 EUR/MWh in 2020 and 2021 and 14.5 EUR/MWh starting with 2022. From 2023 onwards ANRE may decrease the annual average impact of the GCs in order to correlate the GCs offer and demand in the market (in particular, if the offer will be lower than the demand). The final Mandatory GCs Acquisition Quota is established by ANRE by March 1st, every year, for the preceding year. For 2018, an average impact of maximum 11.7 EUR/MWh will be taken into account.

The value in Lei of the impact for the purpose of the estimated quota will be determined taking into account an exchange rate calculated as average of the monthly exchange rates established by the National Bank of Romania for the first 11 months of that year. For the purpose of the final Mandatory GCs Acquisition Quota, the Lei value is calculated based on the average exchange rate of the National Bank of Romania for the previous year and the price of GCs used is the weighted average GCs price in transactions on the anonymous centralized GCs market in the previous year.



Interesting to note that, according to the provisions of the Draft Approval Law 2018, the new method of calculation of the Mandatory GCs Acquisition Quota guarantees the taking over of all GCs issued between 1 April 2018 and 31 December 2031, including those postponed from trading, provided that the annual final electricity consumption does not drop below the average value recorded for 2017-2022.

Export

The Draft Approval Law 2018 extends the obligation to acquire GCs for the electricity exported - as such, the Mandatory GCs Acquisition Quota will apply also for electricity produced in Romania and sold by suppliers to consumers/suppliers abroad, through bilateral electricity transactions, in those states Romania has bilateral agreements with on this matter.

Electricity above hourly physical notification to get GCs

The electricity delivered to the grid by dispatchable units in excess of the quantity included in the hourly physical notification sent to the TSO will no longer be excluded from receiving GCs.

Changes to period of postponement and period of recovery of postponed GCs for solar

The period of GCs postponement for solar power plants will be reduced to 31 December 2020 (compared to 31 December 2024 as currently in force). The recovery will take place in equal monthly instalments from 1 January 2021 until 31 December 2030 (compared to 1 January 2025 – 31 December 2030 as currently in force).

The recovery period for GCs postponed for wind and micro-hydro power plants will remain unchanged - namely from 1 January 2018 until 31 December 2025. The postponed GCs will be recovered in equal monthly instalments.

New rules and exemptions regarding GCs trading

As of 1 September 2017, the trading of GCs is permitted only in a transparent, centralized and non-discriminatory manner, on the centralised anonymous GCs market. The bilateral GCs sale and purchase contracts outstanding at the date of entry into force of EGO 24/2017 could no longer be prolonged or amended to increase the sold GCs quantity and the conclusion of new bilateral contracts is prohibited.

The centralised anonymous GCs market comprises centralised platforms for GCs trading (spot and forward transactions) organised by OPCOM, allowing participants to the GCs market to submit firm GCs sale or purchase offers with respect to quantity and price, without revealing their identity to the other participants to the trading session; the forward transactions are concluded based on a standard form agreement. The Draft Approval Law 2018 introduces the principle of pro rata allocation of the GCs traded on the spot platform based on the sale / purchase offers made.

According to the Draft Approval Law 2018, a minimum of 50% of the number of GCs required for fulfilment of the Mandatory GCs Acquisition Quota will have to be purchased by each of the producers and suppliers having such obligation on the centralised anonymous **spot** GCs market (obligation to be fulfilled both annually and quarterly) in order to increase market liquidity. Such obligation will not affect the bilateral contracts concluded before the entry into force of EGO 24/2017 and/or the number of GCs transferred from the producer account to the supplier account (for those entities that are both producers and suppliers).

New rules regarding the sale of electricity – aggregation of offers

The Draft Approval Law 2018 introduces the possibility for 2 or more renewable energy producers to participate on the centralised electricity market together, as a single aggregated entity, regardless of the technology used, in order to enhance financial and production performance. ANRE will issue specific regulation on this matter within 6 months as of entry into force of the Draft Approval Law 2018. This amendment acknowledges that renewable energy is unpredictable and strongly dependent on weather,



therefore, through aggregation of 2 or more producers, the unbalances created in the system are reduced and the producers will be able to submit sale offers on the centralized market more efficiently

Exemptions for small green energy producers

The threshold for exempting small green energy producers from the prohibition to conclude bilateral power and/or GCs purchase agreements outside OPCOM has been increased - namely the producers of electricity from renewable sources with power plants of no more than 3 MW (currently 1 MW) per producer, may conclude directly negotiated contracts for the sale of electricity and/or GCs with electricity suppliers.

New alternative, optional support scheme proposed

A very interesting development is the proposal to introduce a new alternative, optional support scheme in the form of a fixed premium established per type of technology. According to the Draft Approval Law 2018, the Ministry of Energy together with ANRE, may submit for approval to the Government a new state aid scheme for supporting producers of electricity from renewable resources in the form of a fixed premium per type of technology, which would be added to the average price of electricity resulted from the transactions concluded on the centralized electricity market. Such alternative support scheme would be subject to the approval of the European Commission.

The producers of electricity from renewable resources who benefit from the GCs support scheme would be able to opt for one of the two support schemes (i.e. GCs or fixed premium).

Prosumers

Although there have been legal provisions allowing natural persons holding household renewable energy production installations to sell the surplus of energy produced, this support scheme has never been actually implemented, mainly due to lack of implementation norms and method for determining the sale price. These matters are now addressed by the Draft Approval Law 2018.

The Draft Approval Law 2018 introduces the concept of "prosumer" - final customer holding installations for production of electricity (including cogeneration), whose specific activity is not the production of electricity, who consumes and may store and sell electricity produced from renewable sources by it (in its building, block of apartments, residential area, etc), provided that the electricity sale and/or storage do not represent the primary commercial or professional activity of the non-household autonomous consumer.

According to the Draft Approval Law 2018, the prosumers who hold installations for production of electricity from renewable sources with installed capacity of no more than 27 kW per consumption point may sell the electricity produced and delivered to the grid to their electricity supplier. The suppliers have the obligation to purchase the electricity from prosumers at a price equal to the average weighted price recorded on the Day Ahead Market in the previous year - the supplier will set off the price for electricity produced vs electricity consumed by the prosumer in the corresponding invoice.

In addition, the prosumers producing electricity from renewable sources with installed capacity of no more than 27 kW benefit from the following exemptions:

- (a) prosumers, natural persons, are exempted from the Mandatory GCs Acquisition Quota for the electricity produced and used for own consumption (other than the technological consumption of the electricity production installation);
- (b) prosumers, natural persons, are exempted from all fiscal obligations corresponding to the quantity of electricity produced for own consumption as well as the surplus sold to suppliers;
- (c) prosumers may use their installation for production of electricity without registration and authorisation of the use of installation.



Next steps

The Draft Approval Law 2018 was sent for promulgation by the President and will enter into force upon its publication in the Official Journal of Romania.

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