

Briefing

27 October 2021

Legislation establishing a compensation scheme for the electricity and gas consumption during the 2021-2022 cold season and imposing new taxation on electricity producers on "excess" revenues has just been passed

On 4 October 2021, the Romanian Government approved Emergency Government Ordinance no. 118/2021 establishing a compensation scheme for the electricity and gas consumption during the 2021-2022 cold season and for amending Government Ordinance no. 27/1996 establishing amenities for people living or working in certain areas from the Apuseni Mountains and the "Danube Delta" Biosphere Reservation, hereinafter "**EGO 118/2021**". A draft law for the approval of EGO 118/2021 was registered with the Senate on 5 October 2021 and was ultimately approved by the Chamber of Deputies and sent to promulgation on 27 October 2021, hereinafter "**Law approving EGO 118/2021**".

The most relevant changes brought by the Law approving EGO 118/2021 to the initial form of EGO 118/2021 are as follows:

- a) **Additional tax on revenues:** the Law approving EGO 118/2021 introduces a new tax for electricity producers, providing that as long as EGO 118/2021 will be in effect, i.e., from 1st November 2021 until 31 March 2022, the additional revenue obtained by electricity producers resulting from the difference between the average monthly selling price and RON 450/MWh (approx. EUR 90/MWh) is subject to an 80% tax. This increased tax on additional revenues will not apply to producers of electricity based on fossil fuels, including cogeneration. Details on how the tax will be applied should be provided in an order issued by the National Agency for Fiscal Administration within 15 days as of the entry into force of the law.
- b) **Exception from the payment of the green certificates' price and other tariffs:** Initially, under the text of EGO 118/2021 only household customers were recognized as beneficiaries of the support scheme. However, the draft Law approving EGO 118/2021 was heavily amended in the legislative procedure in both chambers of the Parliament, and the final form provides for new beneficiaries, including *small and medium size enterprises, sole medical offices and other liberal professions, micro-enterprises, authorized natural persons and family enterprises*. The advantage provided to this additional category mentioned above is that they are excluded, in case of electricity, from the payment of the regulated tariffs, respectively (i) the tariff for introduction/extraction of electricity from the network, (ii) the distribution tariff, (iii) the tariff related to the system services, (iv) the transportation tariff, as well as from payment of the green certificates' price, the contribution for high efficiency cogeneration and from the excise duty. In case of natural gas, the above-mentioned categories are excluded from the payment of the cost for transportation, distribution tariff and the excise duty.
- c) **Support Schemes for electricity and natural gas prices:** Law approving EGO 118/2021 extended the categories to whom the support schemes would apply, covering 3 categories: a) households customers; b) *small and medium sized enterprises, micro-enterprises, authorized natural persons and family enterprises, sole medical offices and other liberal professions* and c) *public and private hospitals, academic institutions and kindergartens, NGOs, religious institutions and public and private providers of social services*. Law applying EGO 118/2021 regulates three main support schemes: (i) a compensation scheme, which was initially provided under EGO 118/2021 but has been amended under the current form, (ii) an exception from the payment of the green certificates' price and other tariffs, as detailed in



point b) above, and (iii) a price cap mechanism. The support schemes are directed towards different categories, with one exception, as in case of household customers the two support mechanisms overlap.

- d) **Compensation Scheme:** The compensation scheme is directed only towards household customers and amounts to RON 0.291/kWh (approx. EUR 0.06/kWh) in case of electricity, and a maximum of 33% of the value of the gas (commodity) price from the supply contract, in case of natural gas. By applying this compensation scheme, the final price owed by the household customers for the supply of electricity/natural gas cannot be lower than the reference price, meaning RON 0,68/kWh (approx. EUR 0.06/kWh) for electricity and RON 125/MWh (approx. EUR 25/MWh) for natural gas. In order for the household customers to benefit from the provisions of EGO 118/2021 as amended by Law approving EGO 118/2021, their maximum consumption must be: i) for electricity-1500 kWh for the applicable duration and ii) for natural gas - the equivalent of 1000 m³ of natural gas, at conversion rate of 10.6 kWh/m³, however a 10% margin in favor of the beneficiary is accepted.
- e) **Price cap:** In addition to the compensation scheme, Law approving EGO 118/2021 has also added a price cap mechanism which would apply both to: a) *household customers* and c) *public and private hospitals, academic institutions and kindergartens, NGOs, religious institutions and public and private providers of social services*. For these categories, the final price for electricity is capped to RON 1/kWh (approx. EUR 0.20/kWh) and the final price for natural gas is capped at RON 0,37/kWh (approx. EUR 0,07/kWh). The differences between the average prices for the period between 1st of April 2021 and 31st of March 2022 and the capped prices will be reimbursed from the state budget, through a separate budgetary expense.

Law approving EGO 118/2021 has been approved by both chambers of the Parliament and is expected to be published in the Official Gazette in the next days, and will be applicable starting with 1 November 2021.

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