

Government Emergency Ordinance 1/2020 on certain fiscal-budgetary measures and for the amendment and completion of certain normative acts

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Given the negative effects of the application of the new sanctioning regime established by the supplements to Law no. 159/2016 by Government Emergency Ordinance no. 114/2018, as amended and supplemented, the deadline of which was suspended by the Government Emergency Ordinance no. 19/2019 until 1 September 2019 and subsequently extended by Government Emergency Ordinance no. 54/2019 until March 15th, translated in inhibition of investments in the development of the infrastructure in the context of the communication infrastructure,

taking into account the increased number of construction works to be carried out for the development of the communication infrastructure through the deployment of new technologies,

Given that this provision has in fact established a double sanctioning of providers of electronic communications and services for the same deed, both by Law no. 159/2016 on the physical infrastructure regime of electronic communications networks, as well as for measures to reduce the cost of installing electronic communications networks, with subsequent additions, by the provisions of Art. 85 of the Government Emergency Ordinance no. 114/2018, as well as the subsequent amendments and completions, as well as by Law no. 50/1991 on the authorisation of subsequent construction works,

Given that the application of the provisions of Art. 85 of the Government Emergency Ordinance no. 114/2018 requires the establishment and determination of the certain number of subscribers of an unauthorised network, which in practice is impossible to achieve by 15 March 2020,

due to the urgent need to extend access to mobile broadband electronic communications services in rural areas and other areas where fixed electronic communications networks are installed as soon as possible (to reduce gaps with the European average) 10 % of the turnover of the year prior to the application of the contravention penalty.

7. In Article 104, paragraph 7 shall be amended and shall read as follows:

“(7) After the award of the concession, for the purpose of carrying out the activity, the concessionaire shall apply for the specific authorisations/licences provided for in the legislation in force.”

8. In Article 124, paragraphs (11) and (12) shall be amended and shall read as follows: ‘(11)

Until 30^{June}2020, producers, including their subsidiaries and/or affiliates belonging to the same economic interest group, which carry out both extraction and sales activities of natural gas extracted from the territory of Romania, shall be obliged to sell at the price of

68 lei/MWh, under the conditions regulated by ANRE, the quantities of natural gas resulting from the current domestic production activity and/or storage warehouses, to suppliers of household customers and producers of thermal gas used in the heat consumption only, for the production of natural gas. The measure applies only if the average market price, monitored by ANRE, taking into account the quantities and prices recorded in each market segment, is above the value of 68 lei/MWh.

(I2) The ^{differences}in purchasing costs of the suppliers in 2018 and 2019 shall be recovered by the prices charged, until June 30, 2020, according to the ANRE regulations.

9. In Article 178, paragraph 6 is repealed on 30 April 2020.

10. In Article 179(2), point b) shall be amended and shall read as follows:

‘b) supply of natural gas at regulated price and under framework contracts until 30 June 2020 for household customers;’

11. In Article 195, paragraph⁴² shall be amended and shall read as follows:

“(42) By way^{of}derogation from the provisions of Art. 8 par. (2) of the Government Ordinance no. 2/2001 on the legal regime of contraventions, approved with amendments and supplements by Law no. 180/2002, as amended and supplemented, the contravention provided by Art. 194 item 43 shall be sanctioned with a fine between 2 % and 10 % of the turnover of the year prior to the application of the contraventional penalty.”

Art. XIV

The Government Emergency Ordinance no. 33/2007 on the organisation and functioning of the National Energy Regulatory Authority, published in the Official Gazette of Romania, Part I, no. 337 of 18 May 2007, approved with amendments and additions by Law no. 160/2012, with subsequent amendments and additions, shall be completed as follows:

1. In Article 2, a new paragraph, paragraph 33, is inserted after paragraph 32 with the following wordin:

‘33. from January 2020, the level of tariffs and contributions referred to in paragraph shall apply.

(2) it shall be established annually by order of the President of ANRE and shall be published in the Official Gazette of Romania, Part I.

2. Paragraphs 3, 31 and 32 are repealed.

3. In Article 9, two new paragraphs (11) and (12) are inserted after paragraph¹:

“(11) ANRE shall develop the methodology for calculating the transmission and distribution tariffs of electricity by which the rate of return on capital invested is established. If elements composing the methodology of establishing the rate of return are within the competence of authorities other than the regulatory authority, the information obtained by them as a result of the performance of their duties shall be made available to ANRE as soon as possible for consultation. Consultation of this information by the regulatory authority shall be mandatory, including the tariffs in force, if there is a request from any injured party.

(I2) In developing the methodology for setting regulated prices and tariffs, ANRE shall contain elements to support the development, in the most cost-effective manner, of safe, reliable, efficient and non-discriminatory systems that are consumer-oriented, in line with the general objectives of electricity and energy efficiency policy.

4. In Article 10, two new paragraphs (I1) and (I2) are inserted after paragraph¹:

“(I1) ANRE shall develop the methodology for calculating the transmission and distribution tariffs of natural gas by which the rate of return on capital invested is established. If elements composing the methodology of establishing the rate of return are within the competence of authorities other than the regulatory authority, the information obtained by them as a result of the performance of their duties shall be made available to ANRE as soon as possible, from the date of its request, for consultation. Consultation of this information by the regulatory authority shall be mandatory, including the tariffs in force, if there is a request from any injured party.

(I2) In developing the methodology for setting regulated prices and tariffs, ANRE shall contain elements to support the development, in the most cost-effective manner, of safe, reliable, efficient and non-discriminatory systems that are consumer-oriented, in line with the general objectives of natural gas policy, energy efficiency and the integration of small and large-scale gas production from renewable energy sources, as well as distributed production, both in transmission and distribution networks.’

Art. XV

Article II of the Government Emergency Ordinance no. 38/2019 amending the Government Emergency Ordinance no. 28/2013 approving the National Local Development Programme and amending and supplementing Law no. 411/2004 on privately managed pension funds, published in the Official Gazette of Romania, Part I, no. 434 of 31 May 2019, paragraph 5 is repealed.

Art. XVI

Law no. 121/2014 on energy efficiency, published in the Official Gazette of Romania, Part I, no. 574 of August 1, 2014, as amended and supplemented, shall be amended and completed as follows:

1. In Article 3, paragraph 1 shall be amended and shall read as follows:

“Art. 3

(1) In order to apply the provisions of this law, within the Ministry of Economy, Energy and Business Environment there is a structure for energy efficiency, the organisation and functioning of which are established by the decision on organisation and functioning of the ministry.”

2. In Article 3, paragraphs 2 to 6 are repealed.

3. In Article 3, a new paragraph, paragraph 7, is inserted after paragraph 6 with the following wording:

‘(7) The financing of energy efficiency programmes shall be ensured annually from the budget of the Ministry of Economy, Energy and Business Environment, of sums made up in its own budget and/or by attracting third-party funds, as well as a contribution from licence holders in the field of energy and natural gas in case of joint projects.’

Art. XVII

(I) The unused amounts from the budget of the National Energy Regulatory Authority for

2019, which were constituted on the basis of the provisions of Art. 2 par. (31) and (32) of the Government Emergency Ordinance^{no.}33/2007 on the organisation and functioning of the National Energy Regulatory Authority, approved with amendments and additions by Law no. 160/2012, with subsequent amendments and additions, shall be made to the state budget, in the account of revenues opened on behalf of the Ministry of Economy and the Chapter of the Economy, and the Ministry of Economy. 'Financial operations' in subchapter 41.01.08. "Available from the surpluses of the previous years of reorganised institutions", and the possible amounts wrongly transferred to other subdivisions of state budget revenues are transferred to this chapter by the Ministry of Economy, Energy and Business Environment on a payment order basis.

(II) The Ministry of Public Finance shall be authorised, on a proposal from the Ministry of Economy, Energy and Business Environment, to increase the revenues of the state budget, as well as, at a separate position, the commitment appropriations and budgetary appropriations provided in its budget by the amount paid in accordance with paragraph 1.

(12) The Ministry of Economy, Energy and the Business Environment shall be authorised to detail the influences approved in accordance with paragraph (II) in the budget and its annexes and to communicate them to the Ministry of Public Finance within 5 working days of the increase in the budget.

(13) Until 22 December of the budget year, the remaining unused amounts determined as the difference between the revenue received under paragraph (I) and payments made shall be paid by the Ministry of Economy, Energy and Business Environment from the State Budget revenue account in which they were received in an account opened in his name with the State Treasury.

(14) The amounts transferred to the account referred to in paragraph (I3) shall be transferred within the first 5 working days of the following year by the Ministry of Economy, Energy and Business Environment to the revenue account of the State budget referred to in paragraph 1, following the procedure laid down in paragraphs (II) and (I2), and shall be used the following year to the same destination.

(15) From the amounts paid in accordance with paragraph 1, the Ministry of Economy, Energy and Business Environment finances energy efficiency programmes/projects, as well as CO₂ emissions reduction programmes.

(2) Until 31 December 2020, the Romanian Government shall regulate, at the initiative of the relevant ministry, the status and legal regime of the vulnerable consumer, as well as the method of financing it.

Art. XVIII

(1) The asset tax for the year 2019 shall be declared until and including 25 August 2020. The differences in addition to the asset tax for the semester I 2019 shall be paid up to and including 25 August 2020 and the minus differences shall be refunded e/are compensated according to the provisions of Law No 207/2015 on the Fiscal Procedure Code, as amended and supplemented.

(2) In order to establish the market share in order to determine the asset tax for 2019, the

information on the total aggregate net accounting assets for the banking system is published on the website of the National Bank of Romania until June 30, 2020.

Art. XIX

Until the entry into force of Articles II and XVIII, in 2020 the asset tax shall not be calculated and shall not be due.

Art. XX

(1) In application of item 1 of Art. I, on the date of entry into force of this emergency ordinance, loans shall no longer be allocated through the Development and Investment Fund, carried out in accordance with the provisions of Government Emergency Ordinance no. 114/2018, as amended and supplemented.

(2) The Ministry of Public Works, Development and Administration is subrogated to all rights and obligations of the National Commission for Strategy and Prognosis for the Development and Investment Fund.

(3) The advance received and not used until 31 December 2019, respectively the advance received for works not received under the law until the date of entry into force of this emergency ordinance shall be returned to the Fund's account.

(4) within 10 working days from the date of entry into force of this emergency ordinance, the National Commission for Strategy and Prognosis shall hand over all financing contracts concluded with beneficiaries, applications for funding, budgetary execution, and all documentation submitted by applicants, on the basis of the protocol of surrender-reception to the Ministry of Public Works, Development and Administration.

(5) within 30 days from the completion of the deadline stipulated at par. (4), the Ministry of Public Works, Development and Administration shall modify all financing contracts, according to the provisions of this emergency ordinance.