

For the urgent attention of:

Mr. Klaus Iohannis
President of Romania

Mr. Nicolae Ciuca
Prime Minister of Romania

Mr. Virgil Popescu
Minister of Energy of Romania

Mr. Adrian Caciuc
Minister of Finance of Romania

In copy

Mrs. Alina-Ştefania Gorghiu
President of the Senate, Parliament of Romania

Mr. Ion-Marcel Ciolacu
President of the Chamber of Deputies, Parliament of Romania

Mr. Sandor Bende
President of Industry and Service Commission of the Chamber of Deputies

Mr. Dumitru Chirita
President of Romanian National Energy Regulatory Authority

Mr. Zoltan Nagy-Bege
Vice-President of the Romanian National Energy Regulatory Authority

Ms. Kadri Simson
European Commissioner for Energy

Ms. Ditte Juul-Jørgensen, Director-General, DG Energy
European Commission

Mr. Christian Zinglensen
Director of the Agency for Cooperation of Energy Regulators

Mr. Christophe Gence-Creux
Head of the Electricity Department

Mr. Artur Lorkowski
Director of the the Energy Community Secretariat

12 September 2022

Dear esteemed President, dear Prime Minister, dear Minister Popescu, dear Minister Caciuc,

The hugely negative unintended consequences of GEO 119/2022

The European Federation of Energy Traders (EFET) represents over 130 companies from across Europe. We seek to make sure energy and carbon markets function effectively so that they can contribute to affordability, ensure security of supply and promote decarbonisation.

We are writing to express our fundamental concerns about the adoption of the Government Emergency Ordinance 119/2022 (GEO 119/2022)¹ by the Government of Romania on 01.09.2022 and to outline the impact we expect it to have. We think these impacts will be catastrophic for customers and business in Romania and in the wider region. because:

- Retrospectively applying a tax rate of 98% to wholesale gas and electricity transactions within Romania will push local market participants into insolvency and lead to market exit by non-resident companies.
- Retrospectively applying a tax rate of 100% to electricity exports across Romanian borders will effectively cut Romania off from neighboring power markets.
- In tandem, the two measures are likely to cause huge instability in the European market and could trigger a chain of defaults across the region.
- We understand the intention to protect customers. However, these measures are likely to exacerbate Romanian and regional security of supply concerns which harm customers.

GEO 119/2022 also includes several provisions which constitute direct interventions into wholesale energy market, in direct conflict to relevant EU legislation (including the Treaty on the Functioning of the EU, the Directive (EU) 944/2019 and Regulation (EU) 943/2019)). It is also in stark contrast to the conclusions of the Extraordinary TTE (Energy) Council Meeting of 09.09.2022², which highlight the “*need for coordinated European action*”³ (as opposed to unilateral national action) and the requirement that emergency interventions should “*preserve the fundamentals of the internal energy market and cross-border trade*”⁴ and “*ensure the EU’s security of supply*”⁵.

In light of the above, it is imperative that the Romanian Parliament – both the Senate and the Chamber of Deputies – alter these highly damaging proposals as a matter of the utmost urgency.

¹ Government Emergency Ordinance 119/2022 for amending and supplementing the Emergency Ordinance of the Government no. 27/2022 on the measures applicable to final customers in the electricity and natural gas market during the period April 1, 2022–March 31, 2023, as well as for the amendment and completion some normative acts in the field of energy

² Presidency Summary of the Extraordinary TTE (Energy) Council Meeting of 9 September 2022, available at: <https://www.consilium.europa.eu/media/58929/presidency-summary-220909.pdf>

³ Point 4 of the Presidency Summary of the Extraordinary TTE (Energy) Council Meeting of 9 September 2022

⁴ Point 6 of the Presidency Summary of the Extraordinary TTE (Energy) Council Meeting of 9 September 2022

⁵ Point 6 of the Presidency Summary of the Extraordinary TTE (Energy) Council Meeting of 9 September 2022

We would be happy to provide further information, analysis or support.

Yours sincerely



Mark Copley
CEO
EFET

Annex: Detailed explanation of the unintended consequences of the proposal

Analysis by EFET Member companies has identified the following, highly negative, consequences of GEO 119/2022.

1. Risks to the security of gas and electricity supply in Europe: Long-term supply security is a critical element to reconsider from the perspective of European single energy market. In this sense, Romania would not be the only market affected; long term supply security for the wider region is negatively impacted. Together with other EU Member States, Romania is integrated into the different European power market coupling mechanisms. Additionally, Romania's size and location in South-East Europe has an impact on how prices are formed in neighboring EU and Energy Community countries. As a result, the planned interventions in the Romanian energy market will change the fundamentals of supply and demand throughout the entire south-eastern Europe region. Since Romania is a net electricity importer at certain periods, as well net importer of natural gas in periods when local production and storage are not covering local demand, the intervention into the functioning of cross-border market would cause major issues in the security of supply, especially when there is excess demand within Romania – and the converse is true in situations where Romania would be a net exporter. In case of a critical supply shortage, even for a very short-period of time, spillover effects into the European interconnected energy system would be destructive. Therefore, the current intervention undermining the cross-border activities is critical for the entire system.

2. Romania's energy transition is disrupted with the deteriorated investment environment after the limitation of profits. The profit caps would in turn bring market exits, and accordingly would harm the reputation of the Romanian economy from the international investment perspective. Planned PPA-projects are severely financially impacted and will not be realized. In the long run, the effects of GEO 119/2022 in its current form would appear in a severe decline in confidence in the Romanian energy market, endangering Romania's progress toward its national energy and climate goals.
3. Low liquidity on forward markets leads to lack of competition on the retail market: Ever since the regulatory changes imposed GEO 118/2022, GEO 27/2022 and now GEO 119/2022 liquidity on forward markets has dropped significantly, so as to have contracted on forward, as per data publicly available here: <https://www.opcom.ro/rapoarte/ropexfm.php?lang=en&language.x=7&language.y=6> a historically low volume at a fixed price. Low liquidity on wholesale forward markets in a tight supply context only exacerbates the effect of spot fundamentals, leading not only to lack of stability and lack of interest for suppliers to onboard consumers, but it ultimately leads to price increase.
4. Undermining price and investment signals: The introduction of the relevant provisions through the GEO 119/2022 sends the wrong signals to all existing market players and future investors about how desirable the European market is. The consequences of the new measures imposed by the GEO 119/2022 will be detrimental for the Romanian energy market together with the spillover effects into the wider region. Moreover, uncertain government policy and regulatory risks would absolutely spur market exits and be detrimental for potential future entries
5. Significant adverse effects on the cross-border transactions and flows: As per the new provisions in GEO 119/2022, power exports are no longer permitted to be profitable (taxed at 100%), even for the quantities that have already been contracted in the past and need to be exported. Therefore, direct (and significant) losses will be realized, considering the situation that export prices in traders' contracts are less than the spot market price on the day prior to the transaction. This would lead to negative impacts on all cross-border flows and rapid liquidity loss in Romania, and consequences would impact all other interconnected markets as well as the larger financial market.
6. Trade of physical forwards expected to disappear almost entirely from the Romanian natural gas and electricity market: As we have already emphasized above, the physical energy market in Romania is an essential component of the common energy market in Europe. The introduction of trader taxation eliminates any incentive to trade in the physical forward market and limit the physical market to only day-ahead transactions as otherwise profits and losses would be unpredictable for traders.
7. Chain of contract terminations because the transactions concluded prior to GEO 119/2022, most of which at prices much lower than current market level, would no longer make economic sense. In this case, the effect of the regulation would be the opposite of its intended one, and lead to general increase in market prices.

8. Wholesale market price formation distorted: The proposed amendments substantially intervene into the process of wholesale price formation. Correspondingly, the integrity and the functioning of the market and the technical stability would be compromised.