

CHANGES TO THE E-RES PROMOTION ACT IN ROMANIA

THE ROMANIAN PARLIAMENT HAS RECENTLY ENACTED LAW NO. 184/2018 FOR THE APPROVAL OF EMERGENCY GOVERNMENT ORDINANCE NO. 24/2017 ("**GEO NO. 24/2017**"), WHICH AMENDS AND COMPLETES LAW NO. 220/2008 REGULATING THE SUPPORT SCHEME FOR THE PRODUCTION OF ENERGY FROM RENEWABLE SOURCES, ("**E-RES PROMOTION ACT**").

Law no. 184/2018, which took effect as of 23 July 2018, aimed to amend the green certificates' support scheme, (formerly revised by the GEO no. 24/2017), in order to maintain a balance between: (i) the protection of the final consumers in the electricity market; and (ii) the financial efforts of the E-RES producers to keep their facilities operational.

In this regard, Law no. 184/2018 provides for a new method of calculation of the green certificate acquisition quota by the market participants upon which this legal obligation is imposed. Hence, the Romanian Energy Regulatory Authority ("**ANRE**") must establish at the end of each calendar year the mandatory annual green certificate acquisition quota for the following year, taking into account an estimation of the final consumption of electricity for the following year. This should be calculated so that the estimated annual average impact in the final consumer invoice is equal to EUR 12.5 / MWh in 2019, EUR 13 / MWh in 2020 and 2021 and of EUR 14,5 / MWh from 2022 onwards. The final mandatory green certificate acquisition quota must be established by ANRE by 1 March, every year for the prior year.

The application of this new method of calculation of the green certificates' acquisition quota is aimed at guaranteeing the taking over of all the green certificates estimated to be issued between 1 April 2018 and 31 December 2031, (including those green certificates postponed from trading) and assuming that the annual final electricity consumption does not fall below the average value recorded between 2017 and 2022.

In addition, Law no. 184/2018 provides, *inter alia*, for new rules and exceptions for trading green certificates and selling electricity, including *inter alia*:

- in light of the new amendments, 50% of the total quantity of green certificates to be purchased by each of the producers and suppliers having such obligation, must be acquired from the centralized anonymous market regulated by the Romanian Gas and Electricity Market Operator ("**OPCOM**"). Exceptions will be made for electricity suppliers who have entered into bilateral sale and purchase agreements for green certificates prior to the entry into force of Law no. 184/2018. For these suppliers the percentage of 50% will apply only to the remaining amount after honoring their purchase obligations under these bilateral sale and

- purchase agreements;
- another exception to the prohibition to conclude bilateral power and /or green certificates sale and purchase agreements outside the centralized market operated by OPCOM is provided in favor of small E-RES producers operating power plants with installed capacities of no more than 3 MW per producer;
 - it is now possible for two (2) or more renewable producers to participate on the centralized electricity market together, as a single aggregated entity, regardless of the technology used, in order to enhance financial and production performance.

Law no. 184/2018 also introduces as alternative to the green certificates' promotion system provided by the E-RES Promotion Act, in the form of a fixed premium established per type of technology, to be added to the average price of electricity resulted from the transactions concluded on the centralized electricity market. Such alternative support scheme will be elaborated by the Ministry of Energy together with ANRE and is subject to the prior approval of the European Commission.

The E-RES producers benefitting from the green certificates support scheme will be able to opt for this new alternative support scheme.

About WOLF THEISS

Wolf Theiss is one of the leading law firms in Central, Eastern and South-Eastern Europe. We have established our reputation over a combination of unsurpassed local knowledge and strong international capabilities. We opened the first Wolf Theiss office in Vienna over 60 years ago, and today our team is comprised of about 320 associates with different practice areas, working in offices spread in 13 countries in Central and Eastern Europe.

For more information about our services, please contact:



Ciprian Glodeanu

Partner

ciprian.glodeanu@wolftheiss.com

T: +40 21 308 8100



Cristina Ion

Associate

cristina.ion@wolftheiss.com

T: +40 21 308 8100

This memorandum has been prepared solely for the purpose of general information and is not a substitute for legal advice.

Therefore, WOLF THEISS accepts no responsibility if – in reliance on the information contained in this memorandum – you act, or fail to act, in any particular way.

If you would like to know more about the topics covered in this memorandum or our services in general, please get in touch with your usual WOLF THEISS contact or with:

Wolf Theiss Rechtsanwälte GmbH & Co KG
4 Vasile Alecsandri Str., The Landmark, Building A
4th floor, RO-010639 Bucharest

T: +40 21 308 81 00
F: +40 21 308 81 25
bucuresti@wolftheiss.com

www.wolftheiss.com