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Newsletter / October 25th 2016

New impact regulations of the electricity market



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On 18 October 2016, the Chamber of Deputies has adopted the Law amending and supplementing (the “Amending Law”) the Law on electricity and natural gas no.123/2012 (“Law no. 123/2012”).

The Amending Law was previously sent back to the Parliament by the President for a new voting, the initial version being criticised for the unclear provisions “that can generate a series of consequences with potentially negative effect in the field”. The Chamber of Deputies has largely dismissed all points raised by the President and has re-adopted the Amending Law almost entirely in the initial version.

At this point in time, the President has the alternative of either (i) enacting the Amending Law in the version adopted by the Parliament, or (ii) challenging the constitutionality of the Amending Law, if there are grounds for such course of action (unlikely).

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We kindly invite you to navigate below through the main changes brought by the Amending Law:

No.	Changes by the Amending Law	Brief observations
1	The safety of the National Power System is defined as representing <i>the procurement by the transmission and system operator of the continuity in power supply of a mix of production and technological system services, so that any dysfunctional power capacity is backed-up, without disconnections of any consumer.</i>	Certain stakeholders have criticized this definition on the ground that it enables the transmission and system operator to interfere in the electricity production field. It appears the legislator wished to openly define, for clarity purposes the “safety of the National Power System” concept used (but not defined) by Law no. 123/2012.
2	<i>Priority access to the electricity networks</i> definition was amended by (i) making it applicable to the entire quantity of electricity “produced” not just the quantity “delivered” in the grid (as currently provided), (ii) excluding the obligation for the regulator to ensure the possibility to sell such electricity (as currently provided), and (iii) expressly mentioning that priority access will be conditional upon not endangering the safety of National Power System.	By excluding the reference to the sale of electricity from the definition of priority access, it seems the legislator intended to make clear that the actual sale itself is not guaranteed in principle (i.e., being the result of a commercial free market process). This clarification was likely brought in the context in which the current definition of priority access guarantees the “possibility of sale“ with unclear consequences.
3	Power producers have the right to conclude contracts with other producers, creating an energy mix , in order to prepare offers on the internal or external electricity market, observing at the same time their obligations under the law.	This provision is criticized by the stakeholders (including the President) because of the apparent conflict with the provision of Law no. 123/2012 imposing to the power producers the obligation to offer on the competitive market the entire available power, in a public and non-discriminatory manner. Indeed, the discussed provision seems to suggest that the contracts between producers for achieving the energy mix are done outside the transparent, centralized market, precisely with the purpose of enabling the offering by them of an energy mix on this market.



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No.	Changes by the Amending Law	Brief observations
4	The transmission and system operators shall provide the transmission service for all users under non-discriminatory conditions, procuring the same price to any applicant.	Although Law no. 123/2012 in the version in force stipulates that this service is provided in non-discriminatory terms, the Amending Law goes further in imposing a single price criteria.
5	It becomes mandatory to publish , in addition to the related prices, the quantities determined in the transactions performed on the centralized electricity markets, including the contracts on the regulated market and export contracts.	Certain stakeholders have criticized this provision with respect to the publication of the export contracts, since this would entail a possible breach of confidentiality obligations arising under such contracts (e.g., EFET type contracts).
6	The criteria for promoting the renewable energy sources shall include, besides (and in relation to) the efficiency condition, the criterion of obtaining of the smallest price for the final consumer.	This new criterion creates an anchor in the primary legislation that could be used in the future by the legislator/regulator to readjust the renewables support scheme to the disadvantage of the producers, on the ground of final consumer protection.

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