

NEWSLETTER
- 20.07.2010 –

Sistemul de promovare a producerii energiei din surse regenerabile

Lege nr. 139/2010 din 07/07/2010 pentru modificarea si completarea Legii nr. 220/2008 pentru stabilirea sistemului de promovare a producerii energiei din surse regenerabile de energie, publicata in M.OF. nr. 474/09.07.2010.

Modificarile si completarile aduse Legii 220/2010 ofera o reglementare mai detaliata in ceea ce priveste sistemul de promovare a producerii energiei din surse regenerabile de energie, dupa cum urmeaza:

1) Noi definitii pentru termenii: certificat verde si surse regenerabile de energie:

Cat priveste definitia notiunii de certificat verde, a fost eliminata formularea din vechea reglmentare, conform careia certificatul verde atesta producerea unui 1MWh de energie electrica si care era in contradictie cu articolele conform carora pentru anumite surse de energie, se acorda mai multe certificate verzi pentru 1MWH produs.

Astfel, conform noii reglementari, certificatul verde este definit ca atestand producerea unei cantitati de energie electrica si nu a unui 1MWh de energie electrica.

Sursele regenerabile de energie sunt enumerate de noul text de lege ca fiind: „sursele de energie nefosile, respectiv: eoliană, solară, aerotermală, geotermală, hidrotermală și energia oceanelor, energie hidrotermală, biomasa, biolichide gaz de fermentare a deșeurilor, denumit și gaz de depozit, și gaz de fermentare a nămolurilor din instalațiile de

Promotion System of Renewable Energy

Law no. 139/2010 dated 07/07/2010 for amending and supplementing Law no. 220/2008 establishing the promotion system of renewable energy production, published in Official Gazette no. 474/09.07.2010.

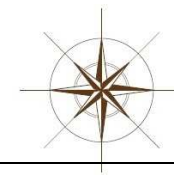
The changes and additions to Law 220/2010 provide a more detailed regulation regarding the promotion system of renewable energy and regulate mainly the following matters:

1) New definitions for the terms: green certificate and renewable energy sources:

Regarding the definition of green certificate, it was removed from the old regulation the wording according to which the green certificate attests the production of 1MWh of electricity and which was in contradiction with the other dispositions of Law 220/2010 as per which, for certain sources, more green certificates are issued for 1MWh .

Thus, according to this new regulation, the green certificate is defined as attesting the production of a quantity of electricity and not the production of 1 MWh of electricity.

The renewable energy sources are listed in the new text as: “non-fossil energy sources: wind energy, solar energy, aero-thermal, geothermal energy, hydrothermal energy and ocean energy, hydro energy, biomass, bio-liquids landfill gas, also called storage gas, and sludge fermentation gas from the air purification systems of wastewater and



epurare a apelor uzate și biogaz."

Se observa ca, spre deosebire de reglementarea anterioara, noua lege nu mai include in definitia de surse regenerabile de energie, „gazele combustibile asociate energiei geotermale” dar, in schimb introduce un termen nou si anume „energia produsa din biolichide”.

2) Sistemul de promovare prin certificate verzi – prelungirea termenului:

Sistemul de promovare se aplica producatorilor, pentru intreaga perioada de 15, 10, 7 si, respectiv, 3 ani (in functie de tehnologia utilizata), daca punerile in functiune se fac pana la sfarsitul anului 2016, termenul fiind astfel prelungit avand in vedere ca in vechiul text era prevazut sfarsitul anului 2014.

3) Cote anuale obligatorii de certificate verzi:

Astfel sunt aduse modificari in privinta cotelor anuale obligatorii pentru perioada 2010-2020, valorile noilor cote fiind prezentate in tabelul comparativ de mai jos.

Anul	Legea 220/2008	Legea. 139/2010
2010	8,3	8,3
2011	8,3	10
2012	8,3	12
2013	9	14
2014	10	15
2015	10,8	16
2016	12	17
2017	13,2	18
2018	14,4	19
2019	15,6	19,5
2020	16,8	20

biogas.”

It can be observed that, unlike the previous regulation, the new law no longer includes in the definition of renewable energy sources, “combustible gases associated with geothermal energy” but, instead, introduces a new term: “energy produced from bio-liquids”.

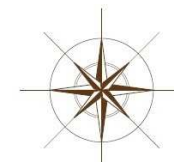
2) The promotion system by green certificates – extension of deadline:

The promotion system is applied to the producers, for the entire period of 15, 10, 7 and 3 years (depending on the technology that is used) if commissioning is made until the end of 2016, thus the term being extended whereas in the old text was provided the end of 2014.

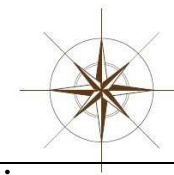
3) Mandatory annual quota of green certificates:

Thus adjustments are made regarding mandatory annual quota for the period between 2010-2020, new quota values being presented in the comparative table below:

Year	Law 220/2008	Law 139/2010
2010	8,3	8,3
2011	8,3	10
2012	8,3	12
2013	9	14
2014	10	15
2015	10,8	16
2016	12	17
2017	13,2	18
2018	14,4	19
2019	15,6	19,5
2020	16,8	20



<p>De asemenea, pentru anumite surse de energie regenerabila s-a modificat numarul de certificate verzi acordate producatorilor, dupa cum urmeaza:</p> <p>(i) pentru energia electrica din centrale hidroelectrice cu puteri instalate de cel mult 10MW;</p> <ul style="list-style-type: none">• trei certificate verzi pentru fiecare 1 MWh produs si livrat daca centralele hidroelectrice sunt noi (anterior - un certificat verde);• doua certificate verzi pentru fiecare 1 MWh produs si livrat daca centralele hidroelectrice sunt re tehnologizate (anterior – un certificat verde); <p>(ii) pentru energia electrica produsa din surse de energie solara - 6 certificate verzi pentru fiecare 1 MWh produs si livrat.</p> <p>Perioada de aplicare a valorii minime (27 euro/certificat) si a celei maxime (55 euro/certificat) de tranzactionare a certificatelor verzi s-a prelungit, valorile mentionate aplicandu-se pentru perioada 2008-2025 (anterior, perioada de aplicare fiind stabilita pentru anii 2008-2014).</p> <p>Furnizorii care nu realizeaza cota obligatorie anuala sunt obligati sa plateasca contravaloarea certificatelor neachizitionate la valoarea <u>de 110 Euro/certificat (anterior fiind 70 Euro).</u></p> <p><u>Sumele colectate de la furnizorii care nu realizeaza cota obligatorie anuala, se face venit la Fondul de Mediu in vederea finantarii producerii de energie din surse regenerabile de catre persoane fizice care investesc in capacitati energetice cu putere instalata de pana la 100kW (reglementarea anterioara prevedea ca sumele astfel colectate vor fi alocate pentru investitii in retea de transport/distributie, in vederea facilitarii accesului producatorilor din surse regenerabile).</u></p> <p>4) <u>Obiectiv national – energie din surse regenerabile:</u></p> <p>Nivelul tintelor nationale privind ponderea energiei produse din surse regenerabile in consumul final brut de energie electrica: (i) 33% pentru anul 2010, (ii) 35% pentru anul 2015 si (iii) 38% pentru anule 2020.</p>	<p>Also, for certain renewable energy sources, the number of green certificates received by producers was changed, as follows:</p> <p>(i) for electricity from hydropower stations with installed power of more than 10 MW;</p> <ul style="list-style-type: none">• Three green certificates for each 1MWh produced and delivered, if the hydropower plants are new (previously – one green certificate);• Two green certificates for each 1MWh produced and delivered, if the hydropower plants are refurbished (previously – one green certificate); <p>(ii) for electricity produced from renewable solar energy sources – 6 green certificates for each 1MWh produced and delivered.</p> <p>The period during which the minimum (27 euro/certificate) and the maximum transaction value of green certificates (55 euro/certificate) are applied was extended, the mentioned values being applied during 2008- 2025 (previously established for 2008-2014).</p> <p>Suppliers that don't accomplish with the annual mandatory quota are required to pay the equivalent of the not-acquired certificates at the value of <u>110 Euro/one certificate (previously – 70 Euro).</u></p> <p><u>The amounts collected from the suppliers mentioned above are made income to The Environment Fund in order to finance the renewable energy production carried on by individuals who invest in energy sources of an installed capacity up to 100kW (the previous regulation provided that the amounts so collected be allocated to investments in the transmission/distribution network, to facilitate access to the grid for renewable energy producers).</u></p> <p>4) <u>National target – renewable energy:</u></p> <p>New target levels regarding the share of renewable energy within the national consumption of energy: (i) 33% for 2010 year; (ii) 35% for 2015 year; (iii) 38% for 2020 year.</p>
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<p>5) <u>Abrogare facilitati:</u></p> <p>Pe fondul situatiei economice din Romania, toate facilitatile prevazute initial de lege, inclusiv cele fiscale, pentru stimularea investitiilor in domeniul energiei regenerabile pe teritoriul Romaniei au fost abrogate.</p> <p>6) <u>Neajunsurile noii reglementari:</u></p> <p>Desi noua Lege aduce importante modificari si completari in ceea ce priveste sistemul de promovare a producerii energiei din surse regenerabile de energie, anumite aspecte relevante in domeniu au ramas nerezolvate si continua sa produca consecinte negative.</p> <p>Astfel, producatorii de energie vor suporta in continuare pierderile de retea pana la punctul de livrare, avand in vedere ca prevederile legale, conform carora certificatele verzi se emit producatorilor doar pentru cantitatea de energie produsa si livrata consumatorilor finali, au ramas neschimbate.</p> <p>In continuare, din cauza lipsei de reglementare a preluarii certificatelor verzi excedentare, exista riscul ca in urmatorii ani, in functie si de implementarea proiectelor anuntate, subzista riscul ca, in viitor, cererea de certificate verzi sa fie mai mica decat oferta.</p> <p>O alta problema nerezolvata de noua lege si, poate, cea mai importanta, priveste procedurile administrative de obtinere a avizelor si autorizatiilor pentru dezvoltarea proiectelor de energie regenerabila, care nu au suferit amendamentele necesare, care sa inlesneasca si eficientizeze procesul de obtinere a acestora.</p>	<p>5) <u>Repealing facilities:</u></p> <p>Given the economic situation in Romania, all facilities to boost investment in renewable energy, including tax incentives, initially provided by law, have been abolished.</p> <p>6) <u>Shortcomings of the new regulation:</u></p> <p>Although the new law introduces significant changes and additions regarding the promotion system of the renewable energy production, some relevant issues in the field have remained unsolved and continue to produce negative consequences.</p> <p>Thus, energy producers will incur further network losses up to the point of delivery, considering that the legal provisions, according to which green certificates are issued only for the amount of energy produced and delivered to final consumers, remain unchanged.</p> <p>In addition and in lack of any further regulation regarding the mandatory acquisition of green certificates' surplus, in the coming years and depending on the implementation of the announced green energy projects, subsists the risk that the sale-offer of green certificates to be higher than the purchase-offer.</p> <p>Another unsolved problem issued by the new law, and perhaps the most important, concerns the administrative procedures for obtaining the approvals and permits for the development of the renewable energy projects, which have not undergone the necessary amendments in order to facilitate and streamline the process of obtaining the mentioned approvals.</p>
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Yours sincerely,
Almaj & Albu, attorneys at law