

Incentive Schemes Inventory

I. List of legal provisions

Certain Romanian laws and regulations in force provide various incentives for (1) the improvement and protection of the environment and for (2) the production of energy.

In drafting this inventory the following pieces of legislation were used:

- Law no. 220/2008 establishing a system encouraging the production of energy from renewable sources ("Law no. 220/2008");
- Government Decision no. 750/2008 approving the Regional *de minimis* Scheme regarding the use of energy from renewable resources ("GD no. 750/2008");
- Government Emergency Ordinance 59/2007 approving the National Programme for improving the environment quality by creating green areas in large cities ("GEO no. 59/2007") modified by Law 343/2007,;
- Government Emergency Ordinance 196/2005 regarding the Environmental Fund ("GEO no. 196/2005") modified by GO 25/2007, EO 37/2008, Law 105/2006 and Law 292/2007;
- Environmental Fund Administration Decision no. 15/2007 approving the Project for promotion of clean technologies and production of energy from renewable sources" ("AFM Decision no. 15/2007");
- Environmental Fund Administration Decision no. 5/2007 approving the Project regarding the prevention, reduction and integrated control of pollution ("AFM Decision no. 5/2007");
- Environmental Fund Administration Decision no. 4/2007 approving the Project regarding the filtering of used urban and industrial waters ("AFM Decision no. 4/2007");
- Environmental Fund Administration Decision no. 9/2007 approving the Project for recycling of used tires ("AFM Decision no. 9/2007");
- Environmental Fund Administration Decision no. 8/2007 approving the Programme regarding the recycling of plastic packaging waste ("AFM Decision no. 8/2007");
- Environmental Fund Administration Decision no. 145/2007 approving the Project regarding the Promotion of Clean Technologies and of Production of Energy from Renewable Sources – *de minimis* Scheme ("AFM Decision no. 145/2007");
- Environmental Fund Administration Decision no. 96/2007 approving the "Project for the management of protected areas" ("AFM Disposition 96/2007");
- Environmental Fund Administration Disposition no. 106/2007 approving the "Programme regarding the prevention, reduction and integrated control of pollution" ("AFM Disposition 106/2007");
- Environmental Fund Administration Disposition no. 136/2007 approving the "Programme regarding the recycling of plastic packaging waste" ("AFM Disposition 136/2007");

- Environmental Fund Administration Disposition no. 69/2007 approving the Programme regarding the filtering of used urban and industrial waters("AFM Disposition 69/2007")
- Order of the Ministry of Environment no. 1339/2008 approving the Financing Guide for the Programme for replacement of classic heating systems with systems using solar, geothermal and wind energy or other systems improving the quality of air, water and soil ("Order no. 1339/2008") – currently repealed by Order of the Ministry of Environment no. 90/2009, repealed under Ministry Order 90/10.02.2009.;
- Government Emergency Ordinance no. 217/2009 regarding the re-launching of the Programme for Renewal of the National Car Park for the year 2009 ("GEO no. 217/2009");
- Government Ordinance no. 780/2006 regarding the Greenhouse Gas Emissions Trading Scheme ("GO no. 780/2006");
- Order of the Ministry of Environment no. 254/2009 approving the Methodological Norms for the allocation of greenhouse gas emission certificates for the new plants, for the period between 2008-1012 ("Methodological Norms for the Allocation of GHG Certificates");
- Government Decision no. 645/2005 for the approval of the National Climate Change Strategy ("GD no. 645/2005");
- Government Emergency Ordinance no. 18/2009 regarding the increase of energetic performances of block of flats ("GEO no. 18/2009");
- Joint Order of the Ministry of Regional Development and Dwellings, of the Ministry of Finances and of the Ministry of Administration and Internal Affairs approving the Methodological Norms for the GEO no. 18/2009 ("Methodological Norms for GEO no. 18/2009");
- Order no. 1533/2008 approving the methodological norms for granting custody over protected areas ("Order no. 1533/2008");
- Law no. 138/2004 established a financing scheme for the regeneration and improvement of agricultural land ("Law no. 138/2004") modified by Law 167/2008, Law 233/2005 and Law 290/2006.;
- Romanian Fiscal Code.

Legislation for transposal of Directive 2001/77/EC of the European Parliament and Council on the promotion of electricity produced from renewable energy sources on the internal market

- Decision no. 443 from 10/04/2003, published in the Official Gazette, Part I no. 288 of 24/04/2003, entered into force on 24/04/2003, on promoting the production of electricity from renewable energy sources, amended with Decision no. 958 from 18/08/2005, published in the Official Gazette, Part I no. 809 of 06/09/2005, entered into force on 06/09/2005, to amend Government Decision no. 443/2003 on promoting the production of electricity from renewable energy sources and for amending and completing Government Decision no. 1.892/2004 for the establishment of a system of promotion of electricity production from renewable energy sources.

I. Primary legislation in the field of renewable energy sources (RES) - related to the Law 220/2008 for the establishment to promote energy production from renewable energy sources

- Electricity law no. 318/2003
- GD no. 1535/2003 approving the strategy for the use of renewable energy sources
- GD no. 443/2003 on promoting the production of electricity from renewable energy sources
- GD no. 1429/2004 on the approval of Certification regulation of electricity produced from renewable energy sources origin
- GD no. 1892/2004 for the establishment of the system of promotion of electricity production from renewable energy sources
- GD no. 958/2005 for the amendment of GD no. 443/2003 on promoting the production of electricity from renewable energy sources and for amending and completing Government Decision no. 1892/2004 for the establishment of the system of promotion of electricity production from renewable energy sources

Secondary legislation in the field of RES:

- Romanian Energy Regulatory Authority (ANRE) Order no. 23/2004 on the procedure for monitoring the issuance of origin guarantees for electricity produced from renewable energy sources
- Regulation of organization and functioning of green certificates market, approved by ANRE Order no. 15/2005
- Methodology for determining the minimum and maximum values of green certificates trading, approved by ANRE Order no. 19/2005
- ANRE Order no. 20/2005 on approval of the minimum and maximum values of green certificates trading

II. Primary legislation in the field of grants support

- GD 457/2008 on the institutional framework for coordination and management of structural instruments
- Law no. 315 from 28/06/2004 on regional development in Romania
- GD no. 1115 from 15/07/2004 on developing in partnership of the National Development Plan
- GD no. 759 from 11/07/2007 on the rules of eligibility of expenditure made for the operations financed by the operational programs
- Decision no.491/2008 amending and completing Government Decision no. 759/2007 on rules of eligibility of expenditure made for the operations financed by the operational programs
- Decision no. 491/2008 amending and completing Government Decision no. 759/2007 on rules of eligibility of expenditure made for operations financed by the operational programs
- Memo for approval of National Strategy for Communication of Structural Instruments 2007-2013

II. Legal status of incentives for investments in sustainable development in Romania

A. Incentives for a sound environment

1. Environmental Fund

The main budgetary source of finance for sound investment projects in Romania, the Environment Fund, was established in 2000 as an economic and financial instrument for the support and implementation of environmental priority projects. It became functional in 2002. The management of the Environmental Fund is ensured by the Environmental Fund Administration (in Romanian *Administrația Fondului pentru Mediu*, "AFM"), a public legal entity, integrally financed from own revenues, under the coordination of the Ministry of Environment and Sustainable Development. Operators of certain activities regarded by law as polluting are requested to contribute to the budget of the Environment Fund.

The funds are being directed back to the economic operators which apply in order to obtain financing for projects aimed to restore or protect the environment. AFM also supports NGOs, local authorities and education units which contribute to the improvement of the local life quality and to the public information on environmental issues.

Basically, the AFM may finance projects from the following 16 categories, although financing programs have not been yet announced for all such categories: a) pollution prevention; b) reduction of the negative impact on atmosphere, water and soil; c) reduction of noise levels; d) use of clean technologies; e) waste management (including hazardous waste); f) protection of the water resources, treatment and waste water plants for local communities; g) integrated management of the coastal area; h) biodiversity conservation; i) management of the protected areas; j) public education and awareness raising on environmental protection; k) increase of the production of energy from renewable sources; l) reduction of greenhouse gases emissions; m) ecological reconstruction and sustainable management of the forests; n) re-forestation of degraded land; o) closing elutriation ponds in mining areas; p) activities for the prevention, elimination and/or reduction of the effects caused by natural hazards to the water management public infrastructure.

Since the creation of the Environment Fund, AFM operated the following incentives/finance schemes:

– Scheme regarding promoting clean technologies

The AFM has approved by Decision no. 145/2007 the Regional *de minimis* Scheme regarding the promotion of clean technologies as well as development and increased use of renewable energy sources. The scheme is a consequence of the Kyoto Protocol within which Romania has undertaken obligations to implement programmes for sustainable development. The scheme grants non-refundable amounts from the Environmental Fund limited to EUR 200,000 or 50% of the eligible costs of the projects. The scheme is applicable for the period 2007-2011 for the following programmes:

- **Project for the management of protected areas** – based on which operators performing in all areas of practice (except for fishing, prime production of agricultural products, carbon industry) and having custody over a protected area, may receive grants according to the *de minimis* scheme. The project was approved by the AFM Disposition 96/2007. The state may grant custody over the protected area in accordance with the provisions of Order no. 1533/2008 approving the methodological norms for granting custody over protected areas;

- **Programme regarding the prevention, reduction and integrated control of pollution** - establishes a state aid scheme in order to grant non-refundable amounts from the Environment Fund for the purchase and installation of facilities which ensure the prevention, reduction and integrated control of pollution. The object of this programme consists of the prevention and minimization of polluting emissions in the air, water and soil, as well as of the production of waste resulted from activities with a high polluting potential. The programme was approved by the AFM Disposition 106/2007;
- **Programme regarding the filtering of used urban and industrial waters** - sets up a state aid scheme in order to grant non-refundable amounts from the Environment Fund for investments which are necessary to modernize, re-technologize and purchase facilities for filtering used urban and industrial waters. The programme was approved by the AFM Disposition 69/2007;
- **Programme regarding the recycling of plastic packaging waste** - aims to reduce the negative effects on the environment caused by storage of plastic packaging waste, by stimulating investments necessary to modernize, re-technologize and purchase new facilities for recycling plastic packaging waste. The programme was approved by the AFM Disposition 136/2007;
- **Programme for recycling of used tires** - The programme was approved by the AFM Decision no. 9/2007. Scope of this programme is to decrease the negative effects over the environment caused by the storing methods of the tires, by stimulating investors to purchase and put into function new installations for processing such wastes. The programme establishes a state aid schemes through which operators are being granted non-refundable amounts from the Environmental Fund, for investments in installations for recycling waste tires through mechanical and chemical processes, which thus contributes to improve of the environmental of the economic development and social cohesion of the regions concerned.

- **Programme for Renewal of the National Car Park**

In order to implement measures for reduction of the environmental pollution caused by traffic in large cities, the Romanian Government has initiated in 2005 a programme having the following goals: to reduce air pollution in large cities, to prevent waste production, to achieve the goals imposed by the European Union concerning the recovering and recycling of the waste. The targeted beneficiaries of the programme are owners of vehicles older than 10-12 years. Such owners received a subvention of RON 3,000 as a first installment when buying a new car from the certified producers and/or importers. This programme shall be re-launched in 2009 based on the provisions of GEO no. 217/2009.

2. **Ministry of Environment – National Programme for improvement of the environment quality by creating green areas in large cities**

GEO no. 59/2007 approved a programme aimed to increase the surface of green areas within large cities as a means to improve the quality of the environment and life, as well as to increase the life standards of the inhabitants and to implement the objectives provided by the 6th Action Plan for the Environment of the European Communities established by the Decision 1600/2002/CE. The programme shall be in force between 2007 and 2017 and shall be managed directly by the Ministry of Environment. The financing shall be granted by the Environment Fund and the sources shall be established each year through

Government decision. The financing guide has been approved through Order no. 1166/2007 of the Ministry of Environment.

3. National Agency for Land Regeneration and Improvements

Law no. 138/2004 established a financing scheme for the regeneration and improvement of agricultural land. The financing scheme is governed by the National Agency for Land Regeneration and Improvements (in Romanian *Agentia Natioanala de Imbunatatiri Funciare "ANIF"*). Owners of agricultural land may set up associative organizations and federations in order to benefit from certain incentives from ANIF, which may only be granted to such associative entities. The incentives may include: free transfer into ownership or free lease of irrigations systems currently owned by ANIF, subsidies for the cost of operating the irrigation systems (eligible cost: the cost of the electric energy for the irrigation pumps, the cost of the water, the cost of certain other works falling under the scope of works for land regeneration and improvement: drainage works, construction of new irrigation systems, construction of flooding defence systems, etc).

The incentives are financed from the budget of ANIF, which consists in budgetary funds and self-generated recourses: tariffs for the withdrawal of the land from the agricultural circuit, sell of irrigation systems, supply of services in the field of land regeneration and improvement.

4. The programme for increasing the competitiveness of industrial products

This multi-annual programme was promoted in 2003 and its development was envisaged for the period 2003-2007, however, the programme will continue for the 2007-2013 through the Sector Operational Program "Increase of Economic Competitiveness". The Ministry of Economy and Finances is the administrator of this programme, which has been approved by GEO no. 120/2002. The beneficiaries of this financial support are the companies operating in the processing industry. The following categories of projects can be financed through this program:

- the implementation and certification of the quality management systems and/or of the environmental management systems;
- the implementation and certification of health and safety management systems for the working environment, systems for social responsibility and food hygiene management and/or of the information security management systems;
- the certification of products and/or ecolabelling;
- the endowment and/or modernization of existing testing and standardizing laboratories, as well as their accreditation, if needed.

5. The GHG (Green House Gas) Emission Trading Scheme

This scheme is not a Kyoto protocol mechanism, but a very similar tool for reducing greenhouse gas emission, established at European Union level to support member states in achieving their CO2 emission reduction objectives in a cost-effective manner. It has been transposed in Romanian law through GO no. 780/2006. The scheme establishes trade system for greenhouse gas emission certificates (in Romanian

certificat de gaze cu efecte de sera) for the industrial installations that perform one or more activities mentioned in Annex 1 of the 87/2003/EC Directive (activities in the energy field, including refineries, the production and processing of ferrous metals, the minerals industry – cement, lime, glass, ceramics, cellulose and paper).

GO no. 780/2006 established the National Allocation Plan (in Romanian *Planul National de Alocare*), which represents the first step in creating the conditions to implement a greenhouse gas emission trading scheme, as well as the conditions of a system of authorization in the field of greenhouse gas emissions (which includes the monitoring and reporting of these emissions). The National Allocation Plan defines the total number of greenhouse gas emission certificates that are allocated at a national and sector level, and at the level of each installation falling under the provisions of GO no. 780/2006. This environment regulation gives the operators the possibility of gaining additional financial sources, depending on the way they manage the level of greenhouse gas emissions at company level. Depending on such management, companies may either be in the position to sell or to buy green house gas emission certificates. The Methodological Norms for the Allocation of GHG Certificates have been recently published in the Official Gazette no. 186/25.03.2009.

6. Kyoto Protocol flexible mechanism applicable in Romania (Joint Implementation Projects)

The mechanism known as "joint implementation," defined in Article 6 of the Kyoto Protocol, allows a country with an emission reduction or limitation commitment under the Kyoto Protocol (Annex B Party) to earn emission reduction units (ERUs) from an emission-reduction or emission removal project in another Annex B Party, each equivalent to one tonne of CO₂, which can be counted towards meeting its Kyoto target.

Romania has been an active country in terms of JI collaboration. It signed 9 Memoranda of Understanding on JI co-operation with JI investor countries: Austria, Denmark, France, the Netherlands, Norway, Sweden, Switzerland and Italy. Presently, 21 JI projects in Romania are in the pipeline at different stages of the project cycle for implementation.

The Romanian National Procedure on the use of JI Track 1, according to Art. 6 of KP, as approved by the MO 297/2008 as well as the MO 1122/2006 approving JI Track 2 procedure, set the stages to be followed in order to benefit of this mechanism.

JI projects, especially those demonstrating energy consumption reduction or renewable energy projects can be financed using this mechanism.

7. Promotion of ecologic products through public acquisitions

Such Programme is based on the European Commission Communication of June 2003 regarding the *Common Product Policy*. The communication above is based on the recommendations and on the common practices among the US public authorities, which have been since long ago encouraged a practice of buying only "Energy star" products. The goal of the European commission is to encourage such practices, so that by 2010 50 % of all assets purchased by the public authorities from the member states are ecologic.

B. Incentives for Energy

1) Conventional sources of energy

a) Energy Efficiency Financing Facility ("EEFF")

EEFF is a grant-supported credit line for Romania that has been established by the European Commission and the European Bank for Reconstruction and Development.

Subject to certain terms and conditions, Romanian private investors, which are active in the field of electric or thermal energy, may borrow up to 2.5 million EUR from a participating bank (BCR – Banca Comerciala Romana, BRD – Banca Romana de Dezvoltare, Banca Transilvania, CEC Bank), in order to use the money for energy efficiency investments. The investments in energy efficiency must result in an increase by 20% of the resources priority allocated by the beneficiary. The investors may receive as part of this facility free technical assistance for the implementation of their projects. The investors are also granted a 15% grant from the amount of the loan (*i.e.* up to 375,000 EUR) when the investment is completed.

b) National thermal rehabilitation programme

In 2006 the Romanian Government launched a new subsidy initiative aimed at providing aid to the associations of the owners of apartments in blocks of flats by subsidising the cost of the thermal rehabilitation of such blocks of flats. On 12 of March 2009, the Romanian Government issued GEO no. 18/2009 regarding the increase of energetic performances of block of flats, in order to remove certain irregularities of the former financing system (approved through Government Emergency Ordinance no. 174/2002) and in order to provide stronger incentives for the beneficiaries. . The new programme increased the level of aid to be granted by the central authorities to the owners' associations for the thermal rehabilitation of the blocks of flats from 34% to 50%, while the overall subsidy to be granted to the owners associations increased from 67% to 80% of the eligible costs. The associations will only have to directly contribute or finance from other sources the remaining 20% of the costs of the thermal rehabilitation. According to the new incentives there is a possibility that the local authorities further subsidise a part or all of the associations' contribution, if certain conditions are fulfilled.

The Methodological Norms for GEO no. 18/2009 have been recently published in the Official Gazette no. 194/27.03.2009.

A similar programme was initiated through Government Decision no. 1661/2008 regarding increase of energetic efficiency and the use of renewable energy recourses in the public sector, during 2009-2010. The programme is managed by the Romanian Agency for Energy Conservation (in Romanian *Agentia Romana de Conservare a Energiei*). Local authorities may receive certain grants to cover the cost of thermal rehabilitation of public buildings and re-technologization of the central heating systems still owned by the local authorities.

c) Guarantees of origin for electricity produced in high efficiency cogeneration

The guarantees of origin are issued by the Romanian Energy Regulatory Authority (in Romanian *Agentia Nationala de Reglementare in Domeniul Energiei*, "ANRE"), at the request of producers of electricity, according to the procedure approved through Government Decision no. 1461/2008.

A guarantee of origin is issued for every 1 MWh of electricity produced in high efficiency cogeneration delivered in the electric network. The validity of a guarantee of origin is of one year as of the issuance

date, in case the guarantee is not withdrawn before that time. For the issuance of the guarantees, ANRE may request certain monetary contributions from the producers who apply for such issuance.

Suppliers of electricity may require guarantees of origin from the producers who own such guarantees for the electricity delivered into the electric network, in cases where (i) regulations of ANRE require the suppliers to recognize the label for the electricity supplied on the basis of guarantees of origin, or (ii) if fiscal facilities, provided in the ANRE regulations or other legal provisions, are conditional upon such guarantees.

Producers are entitled to sell the owned guarantees of origin to the suppliers, however, the price of a guarantee may not exceed the level of cash contributions collected by ANRE for the issuance of such guarantees.

d) Operational Sector Programme - Priority Axis 3 Reduction of pollution and mitigation of climate change by restructuring and renovating urban heating systems.

This priority axis is supported from the Cohesion Fund, a structural instrument which helps member states to reduce economic and social disparities among them. The beneficiaries of this financing scheme are local authorities or, as the case may be, companies operating central-heating systems, owned by the local authorities.

The financed energy efficiency measures must consist in the rehabilitation of heating-distribution systems in line with Romanian Government policy. Such policy for restructuring of the systems for thermal energy production and distribution is set out in the *Urban heating 2006 – 2009, quality and efficiency* programme. The objectives of this national programme is that the centralized system for thermal energy production and distribution shall meet a thermal efficiency rate of at least 80%, by eliminating the losses of hot water and heating supply distribution networks and by introduction of metering systems.

2) Renewable sources of energy

We have identified a number of incentives offered regarding the production of energy from renewable sources. All such incentives are intended to be offered to the producers of energy from such sources, namely to operators which hold an energy production license.

In order to benefit from the facilities offered to the producers of energy from renewable sources, producers might be requested to obtain from ANRE guarantees of origin for electricity produced according with the Romanian legislation in force.

For the electricity generated in multi-gas capacities of production which are using renewable and conventional sources of energy, the financing shall be given only in consideration of electricity effectively generated from renewable sources.

a) Green certificates

The green certificates system was established as a direct type of benefits for the suppliers of energy from renewable sources. The suppliers of electric energy produced from renewable sources may purchase every year a number of green certificates equal to the amount obtained from multiplying the value of the mandatory quota imposed for the respective year and the quantity of energy supplied to the final consumers, calculated in MW/h.