

## Tax & Legal Weekly Alert

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#### Legal Updates

##### **Amendments and supplementations brought to Energy and Natural Gas Law no. 123/2012**

On 30 September 2014 the Romanian Parliament adopted Law no. 127/2014 ("Law no. 127") for amending and supplementing the Energy and Natural Gas Law no. 123/2004 as well as the Oil Law. Law no. 127 has been published in the Official Gazette of Romania no. 720/1.X.2014, First Part, and entered into force on 5 October 2014.

Law no. 127/2014 brings a number of changes to the energy sector of which the most important are the amendment of the legal framework governing transport networks and the implementation of the European rules stipulating the conditions under which property and activity can be separated between transport and system operators as well as between electric energy producers and distributors/suppliers. Furthermore, ANRE has been granted the competency of an autonomous regulatory body and now has the power to settle complaints lodged against transport and system operators as well as against distribution operators. Additional rights for consumers have also been introduced under the new amendments – [page 2](#)



# Amendments and supplementations brought to Energy and Natural Gas Law no. 123/2012

On 30 September 2014 the Romanian Parliament adopted Law no. 127/2014 ("Law no. 127") for amending and supplementing the Energy and Natural Gas Law no. 123/2004 and of the Oil Law. Law no. 127 has been published in the Official Gazette of Romania no. 720/1.X.2014, First Part, and entered into force on 5 October 2014.

The main amendments brought to the electrical power sector by Law no. 127 are the following:

## The introduction of the energy trader notion

- The notion of energy trader has been introduced, which can pertain to participants to the energy market. Consequently, the National Energy Regulatory Authority ("ANRE") will also issue licenses for the activities of energy traders.

## Complaints resolution against the operators

- ANRE has become competent in settling the complaints lodged against the transport and system operator and against distribution operators regarding their legal obligations. The complaints will be settled following the issuance of a decision within 60 days from when the complaint was registered. ANRE has the possibility to extend this term in case it would need additional data. This extended term cannot be further prolonged by more than 60 days, with the applicant's consent. The initiation of the settlement of complaints process by ANRE does not prejudice the applicants' right to address the court in order to settle the same complaint. The disputes between the transport and system operator and the owner of the transport network are subject to the same procedure.
- The procedure regarding alternative dispute resolution concerning consumers can also be used for the complaints against the operators.
- The legal framework of transport networks has been amended in that new transport networks that are built with a transport operator's own sources are not public property and are no longer included in the public domain of the state. Instead, these networks would qualify as the private property of the operator that made the investment. This amendment provides the conditions and the procedures through which transport operators must be qualified as transport and system operators.

## The amendment of the legal regime of transport and system operators

- Two new situations in which a transport and system operator can participate in energy transactions have been provided:
  - for ensuring the energy market coupling mechanisms to which Romania is part;
  - for compensating unplanned changes with neighboring energy systems.
- Law no. 127/2014 transposes at local level the conditions under which the separation of the property and the activities between the transport and system operators can be made, such as:
  - The obligation for the transport and system operator to publish all the costs regarding the operations, maintenance and development of the networks in accordance with ANRE regulations;
  - The obligation for the transport and system operator to be responsible for the operation, maintenance and development of the transport networks and to invest the necessary amounts to ensure the networks' long-term guarantee.
  - The introduction of some interdictions regarding the transport and system operator's staff concerning the confidentiality and the transfer of commercially sensitive information;
  - The lack of liability for the owner of the transport network for giving and managing access to third parties or for planning investments in the transport network;
  - The lack of use by the owner of the transport network of the common services, except for administrative or IT staff.

## The consumers' rights

- According to Law no. 127/2014, the supplier must provide to the consumers information regarding the consumption in an optional use format, easy to understand and harmonized at national level.
- Law no. 127/2014 provides that the supply agreement, negotiated and concluded according to the law, is valid for a non-determined duration or for a duration agreed by the parties and must contain:
  - The identity and the address of the supplier
  - The price and the services provided
  - The type of maintenance services provided
  - The means through which updated information concerning the process can be obtained
  - The duration of the agreement, the conditions of renewal and interruption, and if there is the right to terminate the agreement without costs
  - Applicable compensations
  - The modalities for initiating the dispute resolution procedures
  - Information regarding clients' rights.
- Law no. 127/2014 expressly provides that the final customers have the right to change suppliers for free.
- New final customer' rights have been introduced:
  - The right to be informed of the effective energy consumption and real costs at regular intervals in order to have the possibility to regulate their own energy consumption;
  - The right to terminate any agreement, in case they do not accept the new conditions / clause notified by the energy supplier;
  - The right to receive the information concerning the consumption in a non-discriminatory manner;
  - The right to benefit from various payment methods, which do not cause any undue hardship for the customers.

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