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The Romanian electricity market.

Prospects and uncertainties

At the end of August, the president of ANRE announced that Romania had exceeded 2,000 MW in grid capacity installed by prosumers, setting a new record in the country's energy sector. While the main credit for this achievement goes to the support programs run by the Environmental Fund Administration, the figures indicate a growing trend of Romanians seeking to produce their own energy, aiming to significantly reduce their costs. Why? Despite three years of electricity price caps, the cost of electricity remains a burden for both domestic and industrial consumers. In other words, although energy capacity has increased in recent years, Romania's electricity market continues to face numerous constraints and interferences, leading to one of the highest electricity prices in the European Union. For instance, in September, the price on the Day-Ahead Market exceeded the symbolic threshold of lei 5.000 (euro 1.000) per MWh. One explanation for this phenomenon could be the lack of viable alternatives to the spot market, both in terms of additional electricity markets and the ability to trade derivatives based on electricity. The Financial Supervisory Authority currently imposes requirements that conflict with EU law, hindering the development of such alternatives. The 2022-2023 period was probably the most challenging for the Romanian electricity market, marked by an unprecedented surge in prices and fears that general consumption needs might not be fully covered. While the latter fear did not materialize, the price trend has probably surpassed even the gloomiest forecasts. It is difficult to imagine how consumers, particularly households, could have managed their energy bills without the government's support mechanisms. These measures have not only strained the state budget, but also placed a burden on electricity suppliers, who effectively had to finance the government's support scheme. It is fair to say that the government has achieved social protection at the suppliers' expense, as it: (i) prevented them from freely setting prices for end customers; (ii) only partially (perhaps half) funded

the capped cost of energy suppliers are required to provide.

However, it is time to acknowledge that the government's measures to control prices have recently started to falter. This autumn, the European Commission initiated an infringement procedure against Romania for restricting the freedom of market participants to set wholesale electricity and gas prices and gas exports. These measures violate the fundamental principles of free price formation and free cross-border trade on European wholesale electricity and gas markets.

More recently, the Romanian Constitutional Court ruled that the provisions establishing the contribution to the Energy Transition Fund - used to cap the price of electricity at the producer level - violate the constitutional principle of fair fiscal distribution (Article 56 of the Constitution), as well as the principle of economic freedom and free enterprise (Article 45). The Court argued that the contribution obligation imposed on certain electricity producers distorts fair competition on the energy market and discourages investment in renewable energy sources, which ultimately hinders the investment in new production capacities. It should be noted, however, that the Court's decision comes just months before the electricity price cap measures expire, including the applicability of the contribution to the Energy Transition Fund, so full impact of the ruling remains uncertain at this stage. In conclusion, a universally applicable solution that satisfies all parties involved in the electricity supply chain seems unlikely. It is clear that the state budget cannot sustain price caps for all electricity consumers in Romania, regardless of their consumption. Measures like capping prices at the level of producers and restricting exports are not only unconstitutional but also breach European regulations. A possible solution would be to create genuine alternatives to the current electricity market in Romania, either by opening new functional energy markets or by proposing the necessary pieces of legislation for derivative financial instruments based on electricity as an underlying asset.



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