

**To:** **The Parliament of Romania - Chamber of Deputies**  
Commission for economic policy, reform and privatization  
Commission for budget, finance and banks  
Commission for Industries and Services  
Commission for work and social protection

**In the Attention of :** Mr. **Dunava Costel Neculai** , President  
Mr. **Huțucă Bogdan-Iulian** , President  
Mr. **Bende Sándor** , President  
Mr. **Solomon Adrian** , President

*Ref.: Analysis of the taxation system specific to the oil and natural gas sector in Romania*

***Dear decision makers,***

Considering the approval procedure and the debates on "**PL-x no. 128/2023 Draft Law for the approval of the Government Emergency Ordinance no. 186/2022 on some measures to implement Regulation (EU) 2022/1.854 a Council of October 6, 2022 regarding an emergency intervention to address the problem of high energy prices**", we would like to submit for your consideration a detailed study on the additional taxation system of the oil and natural gas sector in Romania, carried out by the Oil and Gas Employers' Federation (FPPG) based on existing external studies and internal analysis on the subject.

Thus, in the attached report, you will find a detailed assessment of the current tax system for the oil and gas sector in Romania, including comparative analyzes regarding the level of taxation in other European countries. We believe that, in the context of the current energy crisis, it is essential to ensure a fair, stable and predictable taxation that allows the sector to continue to invest and grow in a sustainable way, to ensure Romania's energy security, jobs, economic development and revenues to the state budget. In this sense, the attached document supports an objective and applied debate in order to develop a coherent and fair fiscal system for this sector.

FPPG is a representative organization for the oil and natural gas sector in Romania and aims to support the development of this industry by promoting the interests of its members through a constant dialogue with Romanian institutions based on the expertise of its members. We further wish to express our availability for any other clarifications you consider necessary.

***Best Regards,***

## ANALYSIS OF THE TAXATION SYSTEM SPECIFIC TO THE OIL AND NATURAL GAS SECTOR IN ROMANIA

The taxation system specific to the oil and natural gas sector in Romania<sup>1</sup> includes, in addition to the general taxes applicable to economic operators, the following taxes, contributions, royalties and specific taxation measures (ie additional taxation):

1. **OG 7/2013 - Tax on additional revenues from the sale of natural gas from onshore production:**

- a. the share of **60%** for revenues between **47 lei/MWh and 85 lei/MWh**, respectively **80%** for revenues exceeding **85 lei/MWh** ;
- b. from the tax calculation base, the royalties due for the additional income are deducted, as well as for the tax base to which the 60% rate is applied, investments in the upstream sector of a maximum of 30% of the additional income, to which the above mentioned tax rates are applied. We mention that although OG 7/2013 allows in its text the deduction of a maximum of 30% of additional income (VS1 + VS2), annex 1 of the ordinance only allows the deduction from IVS1, which cancels a significant part of the investments that could be deducted according to art. 2. (3).

2. **Law no. 256/2018** republished with amendments to Law no. 157/2022 - **Tax on additional revenues from the sale of natural gas from offshore and/or deep onshore production**, which is determined by applying certain percentages determined according to the prices charged on additional revenues above 85 lei/MWh (the tax rates increase gradually **from 15% to 70%**). Starting January 1, 2019, the price thresholds used to calculate the tax are adjusted every year, using the annual consumer price index.

This tax represents a deductible expense when determining the fiscal result for the profit tax. The taxpayer can **deduct** his upstream investment **up to 40%** of the total additional income tax.

3. **OG. no. 6/2013 - Tax applicable to crude oil production**. This tax is calculated by applying a rate of **0.5%** of the revenues from the capitalization of crude oil production, including in the situation where the holders of petroleum agreements process the crude oil in their own refinery.

4. **GEO no. 27/2022** amended by GEO no. 119/2022 - **Capping natural gas prices for natural gas sales made by concession agreement holders and the contribution to the Energy Transition Fund**.

- a. The contribution to the Energy Transition Fund for **the production of electricity** , applicable including to holders of petroleum agreements that own electricity production plants by burning natural gas, which has a **100% share** of the revenues from **the sale of electricity** that exceed 450 lei/MWh and the cost of CO2 certificates. In the period 01.04.2022 - 31.08.2022, a similar contribution of **80%** was applicable for the production of **electricity from natural gas-based plants**;
- b. The contribution to the Energy Transition Fund for the **trading activity of electricity and natural gas**, calculated as the difference between the average monthly sale price and the average monthly purchase price, imposes a **quota of only 2%** to cover the rest of the operators' expenses and possibly achieve and a profit margin (Annex 6.1 of GEO 27/2022 amended by GEO 119/2022 starting from 01.09.2022).

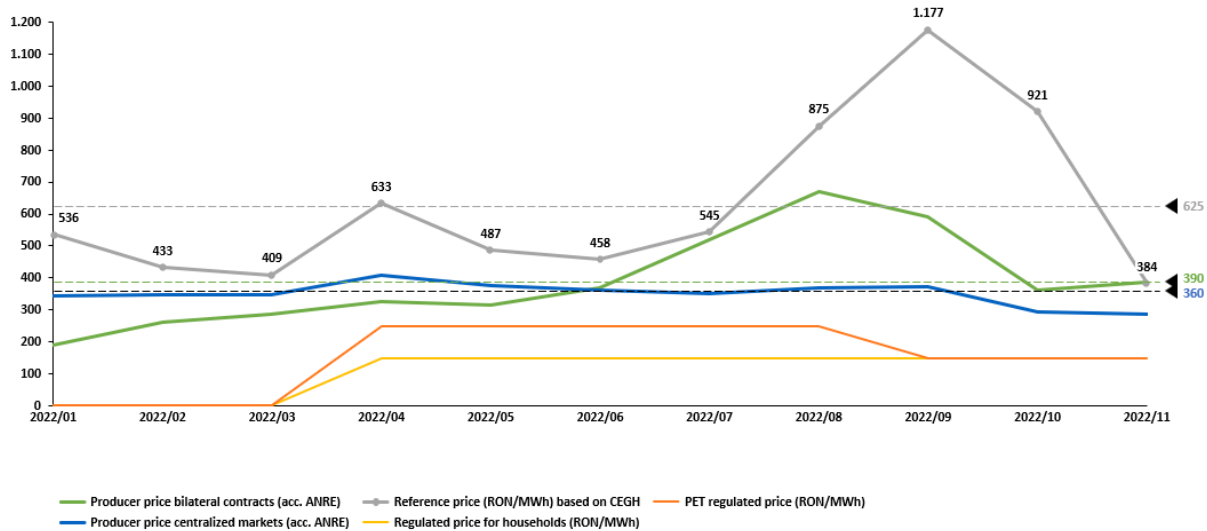
We mention that natural gas producers are obliged to make available, for the suppliers of domestic customers and those of thermal energy producers, as well as for other categories of beneficiaries, the non-contracted quantities of natural gas from their own production, calculated according to Annex 5 of GEO no. 27/2022, at a price of 150 lei/MWh. Sales of natural gas at this regulated price of 150 lei/MWh are exempt from additional income taxes established by Government Ordinance 7/2013 and Law 256/2018. A maximum transfer price of 100 lei/MWh is set for the own production of electricity in the own natural gas plants.

5. The companies in the sector have borne 0.25 lei/liter of the total discount of 0.5 lei/liter granted for the sales of gasoline and diesel to final customers in the period 01.07-31.12.2022 according to GEO no. 106/2022.
6. **Law no. 238/2004 – Oil royalties** set as a percentage varying between **3.5% - 13.5%** (progressive depending on the quantity produced in a calendar quarter), applied to the value of crude oil and natural gas production. The value of natural gas production is determined by multiplying the quantity produced by the reference price determined on the basis of the CEGH Day Ahead stock market index from the natural gas hub in Baumgarten Austria, except for quantities sold at regulated or capped prices for which the royalty is calculated based on the realized price.

<sup>1</sup> PwC Study *Analysis the specific fiscal regime applied the oil and natural gas sector in Romania* October 2022

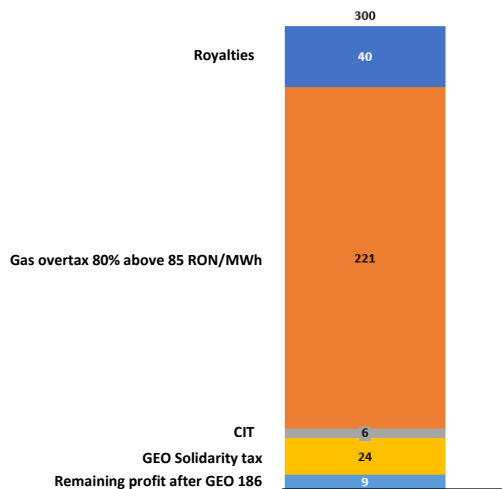
As can be seen from the graph below, the reference price calculated by ANRM based on the CEGH Day Ahead index was in 2022 higher than the average prices achieved by producers according to ANRE reports, in some months even double, which led to the payment of some royalties with effective rates much higher than those provided by Law 238/2004.

### The evolution of the reference price compared to the evolution of the price of producers in RO

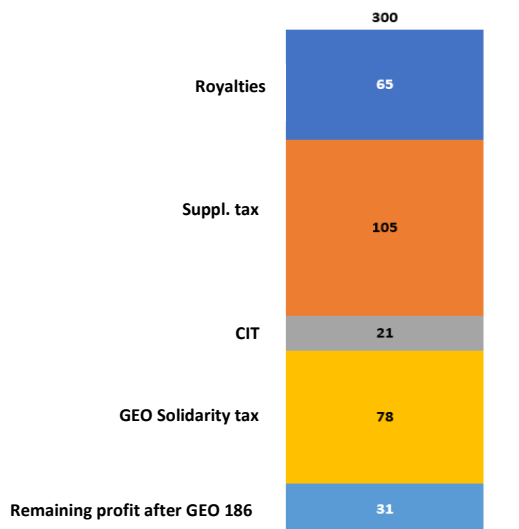


### Main findings

I. As a result of the applicable fiscal framework set out above - in accordance with the FPPG internal analysis based on public data - it appears **that for the year 2022 the companies in the sector paid to the state budget:**



- a. **approximately 90% of the increase in the sale price of natural gas from onshore production sold on competitive markets . The 60% solidarity contribution imposed by GEO 186/2022 would increase this share to 97%.**



b. approximately 63% of the increase in the selling price of natural gas from offshore production sold on competitive markets . The 60% solidarity contribution imposed by GEO 186/2022 would increase this share to 90%.

II. From an analysis carried out by the FPPG based on the data published until 10.03.2023, which is presented below, it results that the **total revenues collected by Romania for the year 2022 from the additional taxes applicable to the oil and natural gas industry are higher than the amounts estimated by other countries in the European Union** as receipts from the solidarity contribution or from additional taxes applied to the oil and natural gas industry:

Country	Year	TOTAL	Suppl. Taxes <sup>1</sup>	Solidarity contribution (bn EUR)	Comments
Romania	2022	4.2	3.4	0.8 <sup>2</sup>	✓ supplementary taxes on oil & gas companies including: royalties, oil and gas extraction suppl. taxes, fuel discount contribution and power generation and gas&power trade contributions
Netherlands	2022	3.2		3.2	✓ 1.5 bn EUR gas extraction, 0.03 bn EUR oil extraction, nil refining, 1.7 bn EUR one-time effects from gas revaluation and gas storage extraction
Italy	2022	2.6		2.6	✓ Solidarity contribution has a wider scope covering all companies with activities in: production and trade of natural gas, electricity, fuels and fuels distribution
Germany	2022& 2023	1 – 3		1 – 3	✓ Solidarity contribution covers: extraction of oil, gas, coal and refining activities
Spain	2022	1.3	1.3	not implemented	✓ Supplementary tax on revenues applied to all types energy companies <sup>3</sup> : production, trade, distribution of power, gas, fuels, including refining activities ✓ Solidarity contribution not implemented (energy levy considered equivalent measure)
Ireland	2022& 2023	0.3 – 1.9		0.3 – 1.9	✓ Government estimates that revenues will likely be in lower end of this range, even lower if gas prices reduce ✓ Solidarity contribution from extraction of gas and refining activities
Hungary	2022	0.7	0.7	not implemented	✓ supplementary taxes on oil & gas companies including: royalties oil & gas extraction and refinery windfall tax ✓ Solidarity contribution not implemented (royalties and refinery windfall tax considered equivalent measures)
Greece	2022	0.65		0.65	✓ Solidarity contribution estimated from two companies having refining activities
Belgium	2022& 2023	0.6		0.6	✓ 0.4 bn EUR refineries ✓ 0.2 bn EUR primary registrants oil products
France	2022	0.2		0.2	✓ Solidarity contribution revenues estimated mainly from refinery sector
Estonia	2022	0.1	0.1	not implemented	✓ resource charges (royalties) and environmental taxes for extraction of shale oil ✓ Solidarity contribution not implemented (royalties considered equivalent measures)
Portugal	2022	0.1		0.05-0.1	✓ Solidarity contribution estimated for refining activities
Denmark	2023	0.05		0.05	✓ Solidarity contribution applies effectively only to refineries ✓ For oil and gas extraction the solidarity contribution has no impact due to existing supplementary taxation
Finland	2023	0.0		no revenues	✓ Government estimates that no company will likely reach 75% from activities in scope (Neste having only operational refinery was estimated to have 62% share of activities in scope in total turnover)
Sweden	2023	0.0		no revenues	✓ Government estimates that no company will likely reach 75% from activities in scope (refining)

<sup>1</sup> Excluding revenues from the solidarity contribution based on EU Regulation 1854/2022

<sup>2</sup> Estimate from Reasoning Note of OUG 186/2022 that implemented solidarity contribution based on EU Regulation 1854/2022

<sup>3</sup> Limited cases exempt from supplementary taxation

III. Regarding the level of the total contribution for the year 2022 detailed by the largest companies in the sector in the European Union, it is noted - based on an internal FPPG analysis based on data published until 10.03.2023 - that the oil and gas industry in Romania **pays the highest amounts** to the state budget compared to the amounts paid by this sector in the rest of the European Union countries:

Company	Country	Taxes bn EUR	Direct taxes and other contributions reported**
OMV Petrom	Romania	2.0	✓ suppl. taxes, royalties, CIT, fuel discount contribution, other direct taxes
Romgaz	Romania	1.7	✓ suppl. taxes, royalties, CIT, solidarity contribution*
BSOG – MGD Partners	Romania	0.6	✓ suppl. taxes, royalties, CIT, solidarity contribution***
Repsol	Spain	1.7	✓ suppl. taxes, CIT, other direct taxes
ENI	Italy, Germany	1.7	✓ windfall taxes, solidarity contribution*
ExxonMobil	Netherlands, Germany, Belgium, France, Belgium, UK	1.7	✓ solidarity contribution*, energy profits levy
MOL	Hungary, Croatia, Slovakia, Czech, Romania, Slovenia, Poland	1.5	✓ windfall taxes, solidarity contribution*, royalties, fuel price regulation
Shell	Netherlands, Germany, Italy	1.4	✓ solidarity contribution*
TotalEnergies	Netherlands, Germany, Belgium, Denmark, Italy	0.9	✓ solidarity contribution*
BP	Netherlands, Germany, Belgium	0.5	✓ solidarity contribution*
CEPSA	Spain	0.5	✓ suppl. taxes, CIT
Hellenic Petroleum	Greece	0.5	✓ solidarity contribution*, CIT
Neste	Finland	0.4	✓ CIT, other direct taxes, solidarity contribution* not due (< 75% turnover)
Vermilion Energy	France, Ireland, Netherlands, Germany	0.4	✓ solidarity contribution*, CIT, royalties
TotalEnergies	France	0.2	✓ solidarity contribution*, CIT
Galp	Portugal, Spain	0.1	✓ solidarity contribution*, windfall tax
INA	Croatia	0.1	✓ solidarity contribution*
OMV	Austria	0.1	✓ solidarity contribution*
Eesti Energia	Estonia	0.1	✓ royalties, CIT, other direct taxes
Lukoil	Bulgaria	0.05	✓ excess profit tax, CIT
OMV	Germany	-	✓ solidarity contribution* not due
BP	UK	2.1	✓ energy profits levy, CIT, supplementary charge
TotalEnergies	UK	1.0	✓ energy profits levy
Shell	UK	0.8	✓ energy profits levy
ENI	UK	0.2	✓ energy profits levy

\* Based on EU Regulation 1854/2022

\*\* Based on reports for 2022 published until 9 Mar 2023

\*\*\* Only for 6 months of 2022

#### IV. Taxation specific to onshore/offshore natural gas production

In September 2019, the Biriş-Goran study <sup>2</sup>came to the conclusion that, in the European context, the taxation system specific to the upstream sector of natural gas in Romania leads to an extremely high effective burden, almost triple the average of **the other countries included in the analysis** .

Thus, in 2018, Romania had **the highest effective tax rate specific to onshore natural gas production of 25% of revenues** , while the average of the countries analyzed specifically onshore was 8.9% of revenues in 2018 .

Regarding offshore natural gas production, the PwC study <sup>3</sup>from February 2022 showed that **in 2021 Romania collected half of the revenues made by companies from offshore natural gas production, only through royalties and the tax on additional offshore revenues** , the tax rate effective specific to this activity reaching 51% .

It should be noted that these taxes **are applied additionally, cumulatively with the common taxation system applicable to all economic operators** .

<sup>2</sup> Study Biriş - Goran from Sept. 2019 *Status to the taxation system specific to the gas upstream sector natural from Romania*

<sup>3</sup> PwC study from February 2022 *Analysis of the specific taxation of offshore natural gas production in Romania in 2021*