

# **Hammond Bogaru & Associates**

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## **Romania's Transport Ministry wants intermodal transport to be subsidized from the Environment Fund.**

A draft government emergency ordinance, proposes state aid for Romanian railway operators with rolling road (ROLA) cars, to cover the cost difference between the two modes of transport (rail and road) through annual subsidies of EUR4.8 million to EUR14.5 million. The state aid may be provided, after notifying the European Commission, from the budget of the Environment Fund, for three years.

Romanian railway company CFR Marfa owns 160 freight cars designed to carry trucks.

## **The European Commission has asked Romania to bring its national legislation on regulated end-user energy prices in line with European Union rules.**

According to the internal energy market rules all companies must have the possibility to freely provide services all over the EU and set their own prices which reflect the real situation on the markets. Regulated prices distort the functioning of the market, defining prices which do not reflect the real needs of the market and prevent free competition and market integration. Thus, it maintains a monopolistic situation which leads to either underinvestment or unnecessary high prices," the commission noted in a news release. Should the state fail to comply within two months, the commission will refer their cases to the Court of Justice.

Two reasoned opinions are sent to Romania, one for electricity and one for gas. For electricity, the Romanian electricity law has set up a regulated electricity market. Regulated end-user prices are applicable to all household consumers and small and medium-sized enterprises that have not yet used their right to switch the supplier. For gas, regulated end-user prices are still applicable to all consumers,

## **The Court of Justice has ruled inadmissible the European Commission's action against Romania for its failure to provide protection for wild birds.**

The European Commission (EC) had taken Romania before the Court for failing to designate sufficient territories (special protection areas – SPAs) to ensure the adequate protection of the habitats of several species of wild birds and certain species of migratory birds.

In its defence, Romania said the action was inadmissible, on the grounds that, in the letter of formal notice, the EC complained that Romania had not communicated the list of SPAs, but in the reasoned opinion the EC's argument was that the SPAs designated were insufficient in number and size. Romania pointed out that the reasoned opinion should have been based on the same complaints as those relied upon in the letter of formal notice.

## **The Romanian Government amended the law on public-private partnerships (PPP)**

The law on public-private partnership, which entered force in October 2010, has been amended through an emergency ordinance approved by the Government after the European Commission

warned Romanian authorities that the law violates community legislation. The decree states the Government will have the right to bar companies with debts to the state budget from public-private partnership contract auctions and will evaluate the offers according to the share of the contract that the investor pledges to cede to SMEs. Apart from companies which have not paid their taxes and social security contributions to the budget, the government may reject the offers made by firms that have been made bankrupt by an insolvency court, or have been subject to equivalent procedures according to the laws of other states.

The Government may also reject bids if the offers are "unusually low" and if data show investors will not be able to meet requirements. Companies will no longer have to provide a 2% guarantee in order to contest a Romanian auction for a public-private partnership contract, but a guarantee of 1% of the contract's estimated value will be a condition for participation. Investors will be selected through open procedures or competitive dialog. Also, companies filing contestations with the National Settlement Council (CNSC) will have to concede a fixed amount plus a percentage of the contract value to the state, should their complaint be dismissed. This sum will be taken from the participation guarantee submitted by the company and will only be refunded if the company challenges the Council's ruling and wins. CNSC may reject a contestation as groundless, belated, "lacking interest" or object, as having been filed by someone without relevant authority, or in case of any other issue of procedure or substance. The challenging company is not refunded its fee.

The state may sign the PPP contract only after a decision by the CNSC. The Council may appoint an independent expert to solve any technical or financial problems. If the plaintiff wins the challenge and the public body fails to abide by CNSC's ruling, the institution's manager will be fined 20% of minimum wage per day.

**The European Commission on Wednesday has authorized a Romanian state aid scheme with a budget of 1.3 billion lei**

The scheme provides subsidies of up to EUR15,000 per farmer. Aid under the scheme can be granted until 31 December 2011 and will take the form of direct subsidies. The scheme is an application of the Commission's Temporary framework for State aid measures to support access to finance in order to allow states to grant limited amounts of aid to primary agricultural producers. The scheme is available for farmers in all sectors of primary agricultural production, provided they were not already in difficulty on 1 July 2008 (before the beginning of the crisis).

**Companies listed on a regulated market must make public the identity and participation of any shareholder who requested the introduction of new items on the general meeting's agenda.**

Any shareholder or investor group owning at least 5% of a public company's shares has the right to propose new items for the agenda of a general meeting. Each proposal must include justification or a draft decision to be adopted in the meeting. The shareholders' proposals must be sent to the company no later than 15 days after the meeting announcement is published.

**The Romanian Government approved a list of 18 public investment projects to be carried out under public-private partnership (PPP).**

The list includes projects for the construction of highways Comarnic-Brasov, Sibiu-Pitesti, Ploiesti-Buzau-Focsani, Targu Mures-lasi-Ungheni, as well as the southern and northern beltway of capital Bucharest. The Tarnita-Lapustesti hydroelectric power plant, reactors 3 and 4 at the Cernavoda nuclear plant, the thermal power station in Doicesti and the AGRI pipeline, which aims to bring

natural gas from Azerbaijan to Romania, via Georgia, will also be constructed in public-private partnership and a project to construct the Siret-Baragan canal.

PPP contracts will be awarded to construct over 10,000 homes in Bucharest, in the Ghencea district, resumption of the Bucharest's Esplanada project, build the Bucharest-Danube canal and the Braila-Tulcea Bridge over the Danube. A network of six emergency hospitals in public-private partnership and will carry out a project targeting the "Ana Aslan" healthcare center and the construction of a penitentiary.

**Public authorities and institutions, private and state-owned companies and individuals must allow access and checkups by Antifraud Department in their headquarters, vehicles and land.**

The law states that the Antifraud Department will have the right to require information and documents it needs to conduct check-ups at any entity whose activity has economic purposes. People or companies refusing to allow antifraud officials access to information and documents can be fined 500 lei (about EUR 120) to RON 5,000 (about EUR1,219).

**The Romanian Transport Ministry will pay arrears amassed by national roads authority CNADNR due to investment projects by the end of June.**

The roads authority will sack 622 employees by end-June. The roads authority will also set up a single traffic check-up authority. Cost standards to build and maintain roads must be approved by the end of June and will apply to all new contracts. Early April, the Transport Ministry published a project regarding three cost standards, after the Government had approved 18 cost standards for all types of infrastructure.

**Romania will modernize 16 train stations.**

Works will be funded with EU money and money from the state budget. The project, will cover the rehabilitation and modernization of train stations at Alexandria, Bistrita, Botosani, Braila, Calarași, Giurgiu, Piatra-Neamt, Pitesti, Ramnicu-Valcea, Resita Sud, Sfântul Gheorghe, Slatina, Slobozia, Targu Mures, Vaslui and Zalau.

Four other projects approved by the Government target modernization of mechanical centralization installations on the routes Ilia-Lugoj, Siculeni-Adjud, 112 railroad crossings and the development of a detection system for overheated breaks.

**Romania's Government will issue "ethical codes" applying to private pension fund.**

The codes will be developed by the National Pension House and implemented between 2011 and 2013. The codes should ensure complete transparency regarding the operation of each pension fund and fair treatment for all contributors. They should uphold the contributors' rights, including the right to property, and set clear and reasonable compensation models, designed to act in the contributor's interest.

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