

Climate Change Legislation

Romania

Report on the Concepts and Directions
of Climate Legislation

Legal Analysis

Justice and Environment 2011

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Legal Analysis

The aim of this paper is to analyze climate related legislation and to assess whether the legal measures are sufficient in order to reach long term reduction targets. J&E compares the outcome with other countries and develops policy recommendations based on the national reports.

1. Climate Change Act

1.1. Has your national Parliament adopted an Act on Climate Change yet?

Although there is no general Act regarding Climate Change, there are many normative acts regulating relevant areas for Climate Change issue.

1.2. Does any draft of a Climate Change Act exist? Has the legislation proceeded? If yes, how soon is it expected to be issued?

No. There is no draft.

1.3. Which body is responsible for preparation of the draft?

If the Government would have on the agenda the adoption of a general regulation regarding climate change, the responsible authority to propose a draft would be Minister of Environment. Also, according to Emergency Governmental Ordinance no 195/2005, Minister of Environment (“the competent central authority”) is responsible for promotion of climate change legislation and policy.

1.4. If there is not any draft, is it a current issue in your country either on political or social level?

There is no public discussion regarding adoption of an Act regarding Climate Change, or about Climate Change issue in general at national level. The minister of Environment is very active on international level, as Romania obtained a negotiator position as the ministry of environment was selected in the working group of European Union (next another 7 states members of European Union) to present the EU’s position regarding Climate Change.

1.5. Has the idea of a separate CC Act been discussed on political or social level?

No, there is no public discussion regarding a separate CC Act

1.6. Are there any concepts regarding the direction of the climate legislation?

Between 2005 – 2007 the National Strategy regarding Climate Change represented the governmental plan regarding Climate Change and gave the direction of future normative acts to be adopted. Since 2007 however, as no other strategy was passed, no other plan or direction regarding Climate Change was issued. Romania is only transposing on time or after infringements procedures are open, the directives of European Union.

- 1.7. Has the public been involved in the (legislation) procedure? Is there any opportunity for public participation according to the draft of the Climate Change Act?

Since there is no draft of a Climate Change Act, there is no public participation regarding the adoption of the Act

2. Climate relevant legislation

- 2.1. Have there been any changes in your legislation – adoption of new pieces of law or coherent modifications - since January 2009 which are climate relevant (even if they are not addressed as climate protection laws) in any branches of law (e.g. transport, energy, agriculture, environment etc.)?

Governmental Decision no. 432/2010 regarding establishment and development of the green investment scheme; the purpose of the decision is to capitalize the surplus of the units of the quantities assigned by the Kyoto Protocol.

Emergency Governmental Ordinance no 29/2010 regarding the capitalisation of the units' surplus of the quantities assigned by Romania by Kyoto Protocol approved and amended by law no 145/2010

Both Acts are establishing the rules regarding the transfer of the units to the states or entities approved by the states listed in Annex B of the Kyoto Protocol. The money obtained by the state (represented by Minister of Economy and Business Environment and Minister of Environment and Forests, Minister of Public Finances, Minister of External Affairs and others) are not imposable and will be used to finance green investments, early investments, raising awareness and information campaigns as well as research studies regarding climate change.

Governmental Decision no 780/2006 regarding the establishment of the trading scheme for emissions of green house gases certificates amended by Governmental Decision no 133/2010, 399/2010, 1300/2010.

Governmental Decision no 60/2008 regarding the approval of the National Plan concerning the allocation of the greenhouse gases certificates for 2007 and 2008 – 2012 periods

Order no 254/2009 of MoE regarding the approval of the Methodology for the allocation of greenhouse gases certificates from the reserve of new installations, for 2008 – 2012 periods.

Order no 1801/2011 of MoE regarding approval of the National Plan for reducing the greenhouse gases emissions in civil aviation

These acts are transposing and are developing the trading scheme for emissions of green house gases certificates. The acts were amended several times according to the EU legislation. A maximum threshold regarding the emissions of the green house gases was set through the National Plan and certificates for green house gases were allocated at national level and for each installation that is covered by GD 780/2006.

Emergency Governmental Ordinance no 64/2011 regarding the geological storage of carbon dioxide

This GD is transposing the Directive 2009/31/EC regarding the geological storage of carbon dioxide. This is applied only for projects aiming to store more than 100 kilo tonnes. For projects that are designed to store less, and that have as purpose research, development and tests for new products and procedures this GD is not applied. Romania is already developing such test project, named GETICA that aims to capture, transport and store more than 1, 5 millions tones Co₂/year¹

However, the legislation transposing EIA Directive (Governmental Decision no 445/2009) was not modified and these projects were not included into the annexes of the GD 445/2009. IN GD 64/2011 is however mentioned that the projects that falls under this regulation needs an environmental permit according to EIA regulation, GD 445/2009.

Order of MoE no 1170/2008 regarding approval of the Guide concerning climate change adaptation

This guide was adopted according to the National Strategy regarding Climate Change approved by Governmental Decision no 645/2005 and the national Plan regarding Climate Change for 2005 – 2007 approved by Governmental Decision no 1877/2005. These were supposed to be amended in 2008, according to the Preamble of the Strategy. However, this was highly neglected by the Government who do not have Climate Change issue as priority, but only the possibility of gaining money (the use of the money is not transparent – we don't know if they are really used for green purposed or not) from the trading schemes and certain so called "green" projects.

Order of MoE the 989/2010 regarding the approval of the financing guide for the program concerning the afforestation of the degraded agricultural land amended in 2011

This order is approving a financing guide (grants) from the Environmental Fond. The Program has as objectives:

- Improvement of the air quality
- Restoration and improvement of soil quality
- Restoration of the hydrological equilibrium
- To ensure the permanence and stability of the biodiversity
- Combating climate change by reducing the effects of drought and by limiting desertification
- Protection of soil, diminishing the intensity of the degradation processes of the lands, and the improvement of the production capacity under the direct effect of the forest cultures

¹ <http://www.getica-ccs.ro/index.php/english/page/getica-ccs-demo-project>

- Ensuring the health standards of the population and the protection of human collectivism against natural and anthropogenic harmful factors
- Improvement of the landscape

Law no 104/2011 regarding air quality

Governmental Decision no 1879/2006 regarding the National Program for reducing progressively the sulfur dioxide, nitrogen oxides, volatile organic compounds and ammonia emissions

Governmental Decision 440/2010 regarding the establishing of measures for limiting the emissions of certain pollutants coming from the large combustion plants.

Governmental Decision 1856/2005 regarding the national thresholds for emissions of certain air pollutants

The Law regarding the air quality does not refer to climate change or greenhouse gases. The law is establishing an integrated system for air monitoring and responsibilities for all parties (central public authorities, local authorities, developers, etc) and evaluation methods regarding sulphur dioxide, nitrogen dioxide, nitrogen oxides, particulate matter PM (10) and PM (2.5), lead, benzene, carbon monoxide, ozone, arsenic, cadmium, nickel, benzo (a) pyrene.

The other governmental decisions are establishing systems and measures for certain pollutants – if thresholds are exceeded, or measures to make sure that they will not exceed. The Law regarding the air quality is mentioning that these GD will apply in concrete situations.

Law no 220/2008 regarding the establishment of the system for promoting energy production from renewable energy sources

Order 43/2011 regarding the regulation for issuing green certificates

Order 42/2011 regarding the accreditation methods for producers of electricity from renewable energy sources to apply the system of promotion through green certificates

Order 45/2011 regarding the methodology for determining the annual quota of green certificates procurement

Order no 44/2011 regarding the regulation of functioning of the green certificates market

Governmental Decision no 935/2011 regarding the use of biofuels and bioliquids
This legislation is establishing the green market. The green certificate is the act that is proving that a certain amount of energy was produced from renewable sources. However, considering the National Energy Strategy, that states that coal energy is green energy, a monitoring of this market will be interesting to follow.

Order no 714/2010 regarding the approval of the financing guide of the plan concerning the increase of energy production from renewable resources

This order applies to projects financed from the Environmental Fund. The grants are given for projects producing energy from renewable sources like: solar, wind, hydropower, geothermal, biomass, biogas, waste gas resulting from fermentation/sludge from treatment plants to produce electric and/or thermal electricity

Legislation regarding the energy efficiency of residential building was also passed.

Governmental Ordinance 18/2009 regarding the increase of energy efficiency for residential buildings, regulates the intervention works for thermal insulation of housing blocks that were build between 1950 – 1990, the steps necessary to accomplish the work, the financing system, and obligations and responsibilities of public administration authorities and the owners associations.

Many local authorities are financing partly or entirely the works. However, the work is mostly done when the works are completely financed by the authorities, because most of the people can't afford to cofinance due to the very high costs.

2.2. Why is it directly or indirectly relevant in climate protection?

The legislation aims to prevent climate changes reducing CO₂ or other gases emissions, promoting green energy, limiting consum, etc. The legislation mentioned is not exhaustive. Romania passed a large number of normative acts. However they seem to be chaotic and it would be very interesting to actually monitor the implemnetion of the legislation (entirely transposition of Eu legisltion) and see if there actually is any contribution to climate change prevention.

3. National Climate Strategy or any other national climate relevant plan or program

3.1. Is there an action plan or program to implement the National Climate Strategy?

Romania passed a Climate Change Strategy for 2005 / 2007 and an Action Plan for the same period, as mentioned above. However Romania has not passed another in 2008 as it should have, according to the previous strategy. This subject is not on the political agenda of the Government and there is no public statement regarding the Governmental agenda on this subject

3.2. Which body is responsible for preparation of the action plan or program?

Minister of Environment and Forests as central authority.

3.3. Is there public involved in the implementation of the above plans or programs?

Since there is no plan or project to be applied, the public can't be involved.

- 3.4. Does your National Climate Strategy cover concrete and coherent legislative measures as tools of the declared goals? Does this Strategy refer to a Climate Change Act?

In Romania there is no Strategy and no climate change Act. However the legislation mentioned above is regulating the main Climate Change areas. Regarding the coherence, due to various and recent amendments of the legislation, it is difficult for us to assess the coherence of the legislation. This is a subject that remains to be seen after a future monitoring activity.

- 3.5. Are the policy measures preferred to legislative measures in climate protection at the present time as well?

Since there is no concrete policy of the government regarding climate change, we may say that legislative measures are proffered to policy measures. However, it is very difficult to pass legislation without setting a concrete direction of the effects of the normative acts passed. We think that there should be an equilibrium between policies and legislative measure that would ensure concrete effects towards climate change limitations.

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