HOW CAN ROMANIA MEET EUROPEAN REQUIREMENTS IN THE FIELD OF ENERGY?
THREE SCENARIOS.

The European Commission has just launched a new infringement procedure against Romania for failing to transpose the Third Energy Package on time. The Commission is demanding swift and rapid reforms. In a new SAR Policy Brief, Corina Murafa puts forward three possible Europeanization scenarios for the energy sector, moving from small cosmetic changes, most likely leading to the infringement procedure going further, to radical reform. Various impacts for state-owned enterprises, consumers and the state budget are discussed within this context.

I. An Assessment of the Current Situation

The Romanian energy market suffers from structural flaws, which pre-date the beginning of liberalization. Although the restructuring process by breaking-up vertical monopolies (damaging for competition and for competitiveness at the same time) started off relatively early - 1998 for electricity, 2000 for gas, uncompetitive commercial practices and damaging administrative decisions kept persisting.

A brief diagnosis of how the Romanian electricity market runs shows that structural flaws still exist. Over 75% of **wholesale electricity trade takes place over-the-counter** (outside the specialized trading platform OPCOM), via so-called bilateral contracts, be they negotiated or regulated. In and by themselves, bilateral contracts are important for ensuring trade predictability for large industrial consumers. Although there is a specialized market for bilateral contracts inside OPCOM, only 8% of the entire electricity traded inside OPCOM is represented by this market segment.

Absent of transparency in trading, over-the-counter contracts follow a political rather than a commercial logic. We are talking here about the so-called **"contracts with the smart guys"**, whereby rent-seeking suppliers or industrial consumers benefit from cheap energy from state-owned companies. In order to minimize this predatory behaviour, the Ministry of Economy mandated that state companies must sell transparently, on OPCOM, to whichever supplier offers more (Order no. 445/ 2009). An exemption to this order was issued later for the largest state-owned producer of electricity, namely Hidroelectrica. Even so, obliging producers to use OPCOM for selling power does not ensure their competitive behaviour. An exemplary proof is the highly publicized event in December 2010, when Hidroelectrica accepted the purchase offer from Romania's largest steel company and sold electricity at 138 RON/ MWh, when the average market price was 160 RON/ MWh.

Apart from **bilateral contracts below market price**, outside or inside OPCOM, the power sector still displays **regulated end-user tariffs**, which are set very low in the regulated sector of the market (accounting for 47% of all retail electricity traded). For this reason, providers are using cross-subsidies to recover their costs, charging industrial consumers more. One of the latest European Commission infringement procedures, dating June 2009, was related exactly to these regulated tariffs, which the Romanian government could not justify as a public service obligation.

Because of regulated end-user tariffs and wholesale contracts below market average, distribution system operators claim they cannot undertake necessary investment in the network. A brief calculation shows that Romania needs up to 15-20 billion EUR of **investments in the distribution network** alone in the next 20 years.

On top of all these aspects, one should not forget the **artificial life support given to inefficient and polluting power plants**, mostly for social protection reasons. The best known case is Termoelectrica, which has accumulated losses of 2.5 billion RON by the end of 2009. In addition, the European Commission also pointed out, in an action against Romania filed in June 2010 other damaging practices in the power sector: **lack of transparency of transmission system operator Transelectrica** and **lack of interconnection capacity**, mainly due to the missing intraday congestion management procedures.

Investors and international financial institutions accuse Romania of **lack of predictability in the elaboration and implementation of reforms** aimed at restructuring the power generation sector. The story of national champions (allegedly one at first, two afterwards) dragged endlessly since 2008, with government decisions successfully challenged in court and with endless waves of criticism coming from the private sector and the academia that the government is trying to save the bankrupt coal industry at the expense of hydro power, the latter being, for better or worse, profitable.

The point of this policy brief is not to discuss whether creating two national power generation mammoths would have been a good idea (although we believe it wouldn't have been). We are only pointing out that the government has not been capable, for four years now, to implement a sound restructuring of the mostly state-owned power generation sector.

In the case of **natural gas**, distortions are even more serious than in the power sector. First and foremost, **the regulator is indirectly setting the price for domestic production** (which accounts for approximately 70% of our consumption), at a level three times lower than the market price. In addition, it imposes **quantitative restrictions**, through the so-called **"basket mechanism"**, an arrangement, claims the government, meant to offer access to all consumers to cheap domestic gas.

Because of a lack of definition for the "vulnerable consumer", the main beneficiaries of this generous government subsidy are not poor senior citizens (entitled, according to European law, to adequate protection), but large industrial consumers (80% of national consumption is industrial consumption). To top it all, between June 2009 and October 2010, temporary measures allowed industrial consumers to consume exclusively domestically produced gas, which exerted a high upward pressure on domestic reserves.

There are clear indicators that the natural gas market is not functioning competitively, namely **lack of liquidity and high concentratio**n indices in all segments of the market. In wholesale production there is a clear oligopoly (Romgaz and Petrom), and this upstream concentration is reflected in the retail segment, with concentration indices two to three times higher than normal values.

Last but not least, despite the obligation to take part in the common market in the field of natural as, the only pipe linking Romania to Western markets (the Szeged - Arad pipeline) does not allow reversible flow, meaning it is physically impossible to export gas to Hungary. In addition, one of the most recent infringement procedures of

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the European Commission is accusing transmission system operator Transgaz of not respecting the requirements in the Second Energy Package and not offering firm and interruptible third party access.

As a general structural deficiency of the Romanian energy market, which impacts both the natural gas and the power sector, one needs to mention the **regulator's lack of independence**. The Romanian Academic Society has presented this issue extensively in Policy Brief no 49/ October 2010 (*Propunere de nerefuzat. Redati puterile ANRE in schimbul bunei guvernante*). In an informal letter addressed to the Romanian government, dating as well from October 2010, the Commissiong was flagging the gradual capturing of the regulator by political interests. A step in this direction has been the dissolution of its budgetary independence through Law 329/ 2009 and Government Decision 1428/ 2009.

In a nutshell, when we discuss about energy in a Romanian context, we need to bear in mind the following structural flaws: lack of regulator independence, very low regulated end-user prices, cross-subsidies, high concentration indices in all segments of the market, lack of investment in the distribution network, in storage and in diversification of supply, lack of transparency of transmission system operators, lack of interconnection capacity and unjustified protection for industrial consumers.

In the electricity sector, we are also dealing with bilateral contracts below market average which follow a political, rather than a commercial logic, and also with lack of transaction transparency. In the gas sector, both quantity and price caps meets, in the form of the "gas basket" and the way the regulator is indirectly setting the price for domestic gas. The European Commission is very much aware of these flaws, and our government has received numerous infingement procedures, including the latest one dating 29 September, 2011.

II. Where Do We Need to Go?

Other Member States are not champions of energy market liberalization and of moving towards a truly European energy common market either. However, we are not talking here in most cases of structural problems as serious as Romania's - lack of regulator independence, cheap energy sold by state-owned enterprises to political clients, simultaneous quantity and price cap (as the case of Romanian gas is).

Although Member States (especially France and Germany) have been waging an endless fight to keep their national markets closed, the European Commission firmly believes that gas and power are commodities like any other, and they must move freely in the common market, so that the consumer could have tangible benefits in the end. For this reason, the Commission has been issuing legislative packages one after the other in order to impose competition in those segments of the market subject to competition (i.e. production and supply). Transmission and distribution are based on cables and pipelines, so they constitute a natural monopoly. Once upon a time, all these four market segments were forming state-owned, vertically integrated national companies.

In a fully functioning common market, the independent operators of transmission and distribution networks must offer free access to any EU economic agent (producer or supplier), no matter its country of origin. In other words, the Commission has been struggling to break up vertically integrated companies (a process called unbundling) and to remove all barriers faced by intra-community gas and power trade.

An elaborate Market Enquiry undertaken by the European Commission, the results of which were published early 2007, reveals unsettling conclusions:

- energy markets remain national scope and interconnection capacity is very lor;
- markets maintain the same level of concentration as in the pre-liberalization period;
- incumbent companies prevent new actors from entering the market;
- prices are highly volatile;
- transmission system operators do not offer transparent data on capacity allocation;
- regulated tariffs persist, and so do long-term contracts in the retail markets.

Under these circumstances, over sixty (60!) infringement procedures against Member States were still open in 2009, while the Commission was already in a hurry of issuing the Third Liberalization Package. Thus, by 4 March 2011, Member States, including Romania, had to transpose in their national legislation two new directives and three new regulations, aimed at bringing about the common market:

- Directive 2009/73/EC concerning common rules for the **internal market in natural gas;**
- Directive 2009/72/EC concerning common rules for the **internal market in electricity**;
- Regulation (EC) No 715/2009 on conditions for **access to the natural gas transmission networks**;
- Regulation (EC) No 714/2009 on conditions for access to the network for **cross-border exchanges in electricity**;
- Regulation (EC) No 713/2009 establishing an **Agency for the Cooperation of Energy Regulators** (ACER).

The main legislative novelties in this package are, according to the Commission: higher standards on consumer protection and public sector obligation; new unbundling measures; increased powers and independence of national regulators; new tools for harmonizing markets at European level (common technical codes, common network development plans, and of course the newly established ACER). Seeing that Member States are not in a hurry this time either to transpose the Package, the Commission has just taken the first step of the infringement procedure against Member States - 18 of them for failing to transpose the Gas Directive, 17 for the Electricity Directive. Romania is an offender in both cases.

In our opinion, the real content of the package does not rise even by far to the expectations of turning the European energy market in a single, competitive market. The package simply repeats clauses in older directives and regulations, the real novelties brought being insufficient to address the structural problems of European markets. Thus, new unbundling provisions are so diluted, that Member States have enough leeway to maintain the joint control over transmission and generation/ supply at the same time. Under these circumstances, one cannot hope that markets will become less concentrated than they are now too soon.

On the other hands, the package contains clear requirements on separating natural gas storage from production and implicitly of granting indiscriminate third party access to storage. Given this, the Romanian government will need to act with respect to Romgaz, which presently controls both extraction and storage of natural gas. Unfortunately, the package does not contain enough incentives for encouraging investments in increasing the crossborder interconnection capacity. The two European Networks of Transmission System Operators (ENTSO for Gas and ENTSO for Electricity) will draft, together with ACER, ten-year investment plans in networks, but fixing the problem of not being able to export gas from Romania to Hungary for instance goes beyond the scope of the Third Package.

The new package mandates that transmission system operators offer information of interest to economic agents in the market in a much clearer and standardized form than nowadays. Unfortunately, the package does not contain extra requirements on price formation transparency. Thus, Romanian companies cannot technically be forced to trade on OPCOM or on a similarly designed platform for gas.

Even worse from the perspective of structural deficiencies in the Romanian energy market, by stressing consumer protection (Member States are free to define "the vulnerable consumer" and "the public service obligation"), they leave a lot of freedom for Member States to maintain regulated tariffs.

Through the newly established ACER, next to the two ENTSOs, the package seems to solve the issue of the incompatible designs of national energy markets, so crossborder transactions will most likely be encouraged. In addition, a new and very significant provision in the package, given Romania's context, is represented by the new and detailed requirements on enhancing regulator's independence. This offers the hope that Romania's national regulator, ANRE, can become once again a chamption of professionalism and fairness in regulation.

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To sum it up, the Third Energy Package does not impose too high demands for us: regulator independence, separating storage from natural gas extraction, defining the vulnerable consumer, enhanced transparency for transmission system operators and participation in the new European institutions aimed at unifying national energy markets (ACER, the two ENTSOs). In the longer run the actions undertaken by these institutions will most likely further integrate isolated national energy markets, but it is too early to assess such an effect. Unfortunately, the package does not oblige companies to respect commercial rather than political rules and does not terminate regulated tariffs. Obviously, given the fundamental flaws of the Romanian energy market, that go against the rules of free market economy, a legislative package diluted by pressure from large Member States to maintain their national monopolies cannot have an overwhelming effect in domestic energy markets.

III. What Scenarios Are We Talking About?

A. "Business As Usual: TEP implementation 'to the letter'"

Information published on the website of the Ministry of Economy regarding legislative initiatives to change the Law on Natural Gas, and the Electricity Law, so as to transpose the package do not convince us that the government wants to transpose Third Energy Package directives correctly. For instance, as Policy

Brief recently published by Expert Forum indicates, ANRE will be granted more independence, but it will not become more accountable through a checks and balances system. In addition, the government's proposals opt for the minimal unbundling option, and there is no ownership unbundling: the Ministry of Economy will own both transmission system operators and producers. In the natural gas sector, it is unclear how storage unbundling will look like.

The proposals are packed with further ambiguities and Expert Forum concluded we cannot talk about adequate transposition. Within this context, the European Commission will send a Letter of Formal Notice to Romania, dated 30 September 2011, asking why the delay in adopting national laws to transpose the Third Energy Package. We were informed by Romania's Permanent Representation at the European Union that the Romanian government is still discussing informally with the Commission the content of the proposals, without notifying them officially. Hence the infringement for non-communication. For the time being, the Commission has not questioned the content of the government's proposals publicly, although we believe it will soon address inadequate transposition as well.

It is now clear that the government's position is closest to a baseline scenario, which will not mean real change. In other words, Romania will continue to follow the pathway of countries with an unfinished transition, by adopting massive amounts of legislation without transposing it adequately. Current practices, as well as the new proposals coming from the Ministry of Economy make us believe we are heading in this direction. Undoubtedly, given the recent infringement procedure, the proposed legislative changes would be adopted, but in a "business-as-usual" format, we fear. What would such a scenario involve?

Both Transgaz and Transelectrica will join the new ENTSOs, so they will participate in drafting joint technical and commercial codes, including new interconnection, capacity allocation and congestion management rules. Despite this, the unclear requirements i n the Third Energy Package on how crossborder energy exchanges will be facilitated in practice leaves ample leeway for Romania to keep the gas market isolated while, most likely, crossborder power trade will increase (in years with a lot of rain, Romania exports 10% of the electricity it produces).

Provisions on transmission system operator transparency will be implemented in Romania at little cost for the government, while the issue of commercial transactions transparency could continue unabated. Given the detailed provisions on regulator independence, issues like budget independency will be enforced, yet a baseline scenario will allow to implement the law only in its letter, not in its spirit. Thus, more radical reforms such as replacing political appointments with technical appointment or the approval of the yearly activity report in Parliament can be avoided. ACER is for the time being a toothless European agency, having mainly a consultative role, and we cannot hope it will contribute too much to improving processes within ANRE.

Most importantly, consumer protection clauses in the Third Energy Package will act like a double edge sword. On the one hand, government authorities will implement effortlessly requirements such as effecting supplier change within three weeks maximum, providing consumption data to clients, creating an energy ombudsman.

Obviously, when implemented correctly (although methodological norms will again be decisive), such provisions can bring real benefits to consumers. On the other hand, since the package allows Member States to come up with their own definition for "vulnerable consumers" and "public service obligations" (in consultation with the Commission, of course) a minimal transposition scenario will lead to endless back-and-forth between the government and European institutions, as the government will try to maintain the regulated tariffs system.

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Under these circumstances, a "Business as Usual" scenario will mean the following consequences:

- economic consequences: further cost accumulation through regulated tariffs and cross-subsidies, so that infrastructure investment can be postponed; the arrears of state-owned enterprises will increase the budget deficit and lead to further public finance deterioration;
- political consequences: all political parties seem to favour postponing much needed reform, yet reform which can have high social costs (for either clientelistic or electoral reasons); in a broader picture, such an attitude coming from the Romanian government will lead to a deterioration of our political relations with the European Commission and the International Monetary Fund; European authorities can choose to push the current infringement further and open up proceedings against Romania in front of the

European Court of Justice, which might include substantial fines; part of the actions promised by Romanian authorities in the latest Letter of Intention addressed to the IMF, dated 9 June 2011, as part of the current Standby Agreeement have not been fulfilled (e.g: privatizing minority packages in Petrom; the calendar for giving back ANRE independence. As a matter of fact, the legislative proposals on transposing the Third Energy Package published by the Ministry of Economy in March this year didn't lead anywhere, with new, yet not significantly improved versions, published on the website of the Ministry of Economy. Many other sensitive actions, such as liberalizing electricity and gas prices, are supposed to be undertaken by the end of this month (September 2011);

- social consequences: heavy, inefficient industries (the mining sector, the fertilizer sector, aluminium) will continue to offer jobs to Romanians in small mono-industrial cities, and energy bills for the domestic consumer will remain unchanged; although socially desirable in the long run, in the longer run the economic costs of this scenario will outweigh its social benefits.

The net winners under this business as usual scenarios are non-profitable industries, including the so-called "smart guys". Domestic consumers are also winners, yet the negative effects of such a scenario will be felt in the medium and longer run.

The clear losers under this scenario are private producers and suppliers (e.g.: Petrom. E.ON, CEZ, Gas de France), who recover their costs, yet are not making at all as much profit as they could. The government itself is also a loser, because profitable state-owned enterprises (e.g.: Hidroelectrica) are not making as high a profit as they could, while the arrears of non-profitable producers keep increasing.

B. "Third Energy Package Implementation and Incremental Reform"

Although the Third Energy Package is not by far strong enough to really push for the creation of the single energy market, it can trigger some pressure on the government, also given the recent infringement procedure opened by the Commission. In conjunction with commitments within the framework of the IMF agreement, one can imagine a scenario whereby the government implements gradual reforms given the external pressure coming from these two institutions.

All elements of the Third Package the implementation of which would have been unavoidable in a baseline scenario will be implemented in an incremental reform scenario a well. The government will need to grant more independence to the national regulator, transmission system operators will develop common technical and commercial codes and will become more transparent when it comes to capacity allocation and to third party access. Both in the gas and the power sector, an incremental reform scenario will mean opening up the market further (the opening has been stagnating around 53% of the market for power and 56% for gas), without forcing consumers to renounce their captive status. In addition, in the case of case storage unbundling will take place and the price for domestic gas will gradually increase, so as to facilitate both competition and investment.

Price convergence will mean that the government could allow gas exports as well - assuming it will increase storage capacity and diversify supply - which means Romania will ultimately have the chance of becoming an important actor on the European gas market. A non-radical change would mean defining the vulnerable consumer in such a way to comprise almost all domestic consumers and small businesses, in accordance with European recommendations. The most correct solution, one that respects the spirit of European law, is to protect vulnerable consumers via social subsidies, but one can imagine an arrangement with gas suppliers (publicly and privately owned) in which they would offer social tariffs for vulnerable domestic consumers in exchange of eliminating the gas basket. Either way, the vulnerable consumer must be defined.

European authorities can choose to push the current infringement further, and open up proceedings against Romania in front of the European Court of Justice, which might include substantial fines.

Obviously, such a scenario would require social protection and professional reconversion programmes in those geographical regions affected by the bankruptcy of industries, which have been so far protected by gas subsidies offered to industrial consumers. As far as power is concerned, the scenario means privatizing minority packages in state-owned generation companies. Transparency obligations in the third package would be interpreted as transparency of transactions (including by transferring all transactions on OPCOM), not only as transparency of the transmission system operator.

Under these circumstances, an incremental reform scenario would have the following consequences:

- economic consequences: losses to consumer surplus and job losses in industries indirectly subsidized by cheap energy will obviously represent economic losses; at the same time, privatizing minority packages in state-owned generators and the higher profit margin of those companies that are not working right now to their full potential because of bad deals concluded outside OPCOM will act as economic gains; in the longer run, increased revenue of public and private actors will mean more network investment and creating more efficient generation units; this incremental reform scenario would function best under the assumption of low economic growth, as next months are looking to be.
- political consequences: higher energy prices/ lay-offs, unless compensated for by social transfers, including professional reconversion programmes, will inevitably mean retaliation against PDL in the 2012 elections;
- social consequences: social costs will be higher in the shorter run than in the baseline scenario; however, in the medium run, given that vulnerable consumers will be correctly defined and protected and that most consumers will only join the competitive segment of the market voluntarily, these costs will be mitigated.

Net losers under this scenario will be the heavy industry (aluminium, fertilizer production). Bankrupt state-owned energy companies that would be shut down because restructuring would not be possible will lose, but the state in general would profit from increased budget revenue (generated by the net winners, i.e. both public and state-owned gas and power producers). The government will have the chance to increase its reputation at EU-level, but domestically there is the risk that voters will retaliate against costs incurred by even the slightest reform. It is up to the efficiency of social protection measures that these risks be mitigated.

C. "Third Energy Package Implementation and Radical Reform"

Under conditions of high economic growth and aggressive IMF/ EU pressure, one can imagine a scenario whereby the government opts for maximal transposition and for supplementary, relatively drastic reform measures.

In the gas sector, such measures might be: renouncing the basket mechanism, defining the "vulnerable consumer" very strictly, so that the most households and all economic agents would not be able to qualify as vulnerable consumers; full convergence of prices in less than a year and creating an OPCOM for gas. In the power sector, essential changes would be majority share privatizations and forced opening of the market. In a radical reform scenario, there won't be any intermediary measures for protecting small industrial consumers. Essentially, both the second and the third scenario, head towards the same direction. The speed of reforms differs and the so do the social protection measures surrounding them.

The consequences will also be more drastic:

- economic consequences: massive privatization would mean net gains in the Romanian economy; at the same time, such a scenario can be imagined only under conditions of high economic growth, globally, which would enable investors to offer a high price for these majority packages; consumer surplus would go down, which would lead to a decrease in consumption, with negative effects in the entire economic chain.
- political consequences: for sure the increase in tariffs for domestic consumers would be used by the opposition as an electoral weapon in the upcoming 2012 campaign; at the same time an anti-European discourse would appear.
- social consequence: social costs will incur due to lay-offs in privatized state-owned enterprises and in heavy industries affected by higher energy prices; it is hard to believe that the social protection system will move swiftly enough to absorb the shock.

The distribution of winners and losers would be by and large the same as in the second scenario. The mining industry and thermo power plants will go bankrupt because restructuring would be impossible. Under these conditions, Romania could turn from a net power exporter to an importer. Romanian gas producers would enjoy an increase in revenue, and suppliers would also win. Consequently, the Romanian government would win from higher royalties, profit taxes and privatization revenue. At the same time, it is hard to believe that the consumption decrease will be compensated by the aforementioned revenue, given that medium income domestic consumers will be hit hardest, given they won't qualify as vulnerable consumers.

The table on the next page summarizes the three transposition posibilities of the Third Energy Package:

Shaping factors	S1: TEP Implementation "To the Letter"	S2: TEP Implementation and Incremental Reform	S3: TEP Implementation and Drastic Reform
Economic growth	low	low	high
EU/ IMF pressure	low	high	high
Shaping actors	- heavy industries benefiting from cheap energy - domestic consumers -> through electoral pressure	- EU Commission/ ECJ - IMF - private suppliers and producers - domestic consumers -> through electoral pressure	- private power companies (interested in acquiring generation assets) - domestic gas producers - IMF - (to a lesser extent than S2) EU
Main TEP-based actions	- strengthening ANRE independence - increased TSO cooperation - transparency regarding networks/ allocation - protracted definition of vulnerable consumer -> en masse "protection" - cross-subsidies maintained - isolated market maintained (mostly for gas)	- strengthening ANRE independence - increased TSO cooperation - transparency regarding networks/ allocation - transparency of transactions (OPCOM) - gas storage unbundling - gradual, voluntary entry of consumers on the competitive segments - privatize minority packages in generation - gas exports allowed - elimination of basket in exchange of special social tariffs from suppliers OR generous definition of vulnerable consumer (to include most domestic consumers and small businesses) - expanding storage - action on security of supply - some mining kept and subsidized	- strengthening ANRE independence - increased TSO cooperation - transparency regarding networks/ allocation - transparency of transactions (OPCOM, OPCOM-like structure for gas) - gas storage unbundling - very strict definition of vulnerable consumer (to include only few domestic consumers) - price convergence for gas in less than one year - mandatory entry of consumers on the competitive market - privatize majority packages in generation - gas exports allowed - elimination of basket - risk of import dependency, unless storage is expanded and supply diversified - mining closed -> potential electricity imports
Political impact	deteriorating relationship EU - IMF; populist protection measures before election	Romania becomes a strategic energy actor at EU level; softened voter vengeance	voters and opposition sanction drastic reform
Economic impact	increased cost accumulation and arrears; industries supported artificially	revenue from privatization and increased efficiency compensates increased social spending	heavy economic impact for households, risk of mark-up manipulation by producers (if supply and storage not diversified)
Social impact	least social impact	medium impact, if protection is strong in mono-industrial towns	heavy impact
Winners	subsidized industry, household consumers	domestic producers and suppliers, state (privatization and tax revenue)	domestic generators and suppliers, especially private ones, state (privatization and tax revenue)
Losers	domestic generators, suppliers, distributors	subsidized industry, (to a lesser extent) state - because of social spending compensation	subsidized industry, households, state (decreased consumption)

IV. Our Recommendation

We recommend the second scenario (Third Energy Package implementation and incremental reform), including, most importantly, a rapid adoption of adequate legislative changes to the Electricity and Natural Gas Law, so as to avoid having the infringement procedure pushed further. Realistically speaking, given the frail global and national economic growth and the electoral temptations of 2012, nothing more than incremental reform is feasible in Romania. From the legislative proposals published on the website of the Ministry of Economy for the transposition of the third package, it is clear that Romanian authorities would rather prefer a Type A scenario, i.e. a shallow implementation of the package that would bring very few improvements to the energy sector.

Measures such as increasing ANRE independence, increasing the transparency of transmission sector operators but also of transactions by moving them to OPCOM, the clear separation of gas storage from production (accompanied by the increase in storage capacity), gradual voluntary entry of consumers on the competitive segments of the markets, privatization of minority packages in state-owned enterprises (although the IMF agreement, which includes such privatizations, dates from March 2011, the only attempts in this direction pursued by the Romanian government to date have failed), a mechanism to protect most natural gas domestic consumers (but removing protection of industrial consumers) are realistic and would bring great economic benefits, while minimizing social losses.

Political will and strategic thinking are needed, yet the coming elections are not a good omen, given Romania's low governance capacity. Hopefully, EU pressure will act like a strong enough external anchor.

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