

**To: Mr. Günther Oettinger, Commissioner on Energy
The European Commission, Directorate General Energy**

July 26, 2010

Dear Sir,

The signatories of this letter are highly concerned about the coherence, validity and efficiency of the Romanian National Action Plan on Renewable Energy, developed by the Romanian Government.

We believe the action plan is crucial for Romania's sustainable development and that applying it will have major impacts on citizens' lives. Still, as civil society organizations, we are extremely disappointed by the way the Romanian Government understands transparency in decision-making and policy planning and by the content of the Action Plan, which is misleading, incomplete and inefficient.

The publication of the Plan did not comply with the access to information and transparency principles and legislation, as it was only public on the Ministry of Economy's website and comments could only be sent for 5 days after the publication (on June 16, 2010), including one week-end. Romanian legislation (Law no. 52/2003) specifically states that the duration of any consultation process should not fall below 10 working days.

The Ministry of Economy also completely ignored two requests for public information sent on June 8 by two NGOs (TERRA Mileniul III and ALMA-RO), that declared themselves stakeholders regarding the National Action Plan on Renewable Energy. They were never informed about the publication of the action plan, or any public debate. Moreover, the Ministry of Economy never really answered the requests of information, referring precisely to the National Action Plan and the implementation of Law 220/2008, which is the main piece of legislation supporting the development of renewable energy in Romania, but has never been implemented because it lacked the methodology.

The content of the National Action Plan on Renewable Energy is also proof that the document has never really been open for consultation. During the last year, TERRA Mileniul III and ALMA-RO developed a series of projects involving stakeholders of renewable energy policies, including public administration, companies and NGOs. Around 12 meetings¹ were organized in Bucharest and around the country, where stakeholders were invited to express their points of view on the current policy framework regarding the use of renewables. We were thus able to gather comments from various areas of the country regarding the barriers in producing and using renewable energy in Romania and recommendations to improve the system, based on active companies' experience. Most of the comments and recommendations were not requested by the Ministry of Economy or the Ministry of Environment, although they had been informed of our projects and invited to the meetings. Most stakeholders' concerns and recommendations are certainly not answered in the National Action Plan for Renewable Energy.

Moreover, on July 13th 2010 the Ministry of Economy uploaded on its website the new improved version of the National Action Plan on Renewable Energy, "after having consulted the stakeholders". TERRA Mileniul III submitted a new request for public information aiming to find out when and where the public consultation took place, when and where this information was announced, who took part in the meeting and what were the comments made by the participants. To this date, the Ministry of Economy has failed to offer a consistent answer to this request and

¹ These were organized just last year, but both organizations have been working on this issue for over 7 years.

the only e-mail that was received says: “we regret to inform you that due to the constraints imposed by the 2009/28/EC Directive a longer period of consultation was not possible”.

Last but not least, we consider that a proper National Action Plan on Renewable Energy should have undergone the **strategic environmental assessment procedure**, not only given the environmental potential impacts of the Plan’s implementation, but also to comply with the national legislation – Governmental Decision 1076/2004 which transposes the 2001/42/CE Directive.

Below is a list of crucial issues we identified in the National Action Plan on Renewable Energy that need to be addressed in order to make the plan efficient. Part of the comments below is included in the study “The corruptibility of legislation. Case study: the use of wind energy in Romania” that ALMA-RO developed during the first half of 2010, under a Phare Project. The study is available online in Romanian, on ALMA-RO’s webpage: <http://alma-ro.ngo.ro>, the Publications section.

1. Systemic approach: the National Action Plan does not include any reference to decoupling energy consumption and economic growth. On the contrary, the prognosis of energy consumption is proportional to the projected economic growth.
2. Planning: There is no evaluation of investments and actions accomplished so far as a consequence of the National Strategy for the use of renewables, adopted by the Romanian Government in 2003. There is no clear image of our current status, which the action plan should be based on.
3. Planning energy efficiency: the plan practically contains no information regarding energy efficiency actions in buildings (pages 52-54 of the plan are empty because of lack of data)
4. Legislation 1: The Action Plan constantly mentions Law no. 220/2008 setting up the system for the support of energy production from renewables as an operational piece of legislation that is put in place. The system includes two components: green certificates (for the producers of electricity from RES) and mandatory quotas (for the electricity suppliers). Though the Law was enforced on November 8, 2008, it was never applied due to lack of application norms (supposed to be published 90 days after the enforcement of the Law). Consequently, we can state that, without a doubt, Romania **doesn’t seem to have a real interest** in supporting renewable energy production. Law 220/2008 was amended by Law 139 in July 2010 and we are still waiting for a new methodology to implement the latter, which will make the process even longer.
5. Bureaucracy and institutions on RES: although the Action Plan suggests the legal framework is clear, it mentions that the latter is composed of 48 laws (excluding secondary legislation). The list is incomplete and the legislation is frequently overlapping and confusing. Just the number of laws gives a good image on how difficult it is to plan a renewable energy investment project. According to the plan, 11 permits are needed to start producing energy. Still, companies say over 80 permits are needed to develop and commission an energy plant and no difference is made between renewable energy investments and others (fossil fuels, nuclear etc.). Although a unique office to take over renewable energy procedures is needed and was requested repeatedly by companies (following success stories from other Member States), the Plan does not take this into account. No credible measures to improve the institutional framework are planned.
6. Bureaucracy and institutions on energy efficiency: there are inconsistencies in identifying the institutions that are responsible for policy implementation. One example is related to responsibilities regarding the energy efficiency policy. According to the Plan, most of the responsibilities related to industrial energy efficiency fall under the duties of the Romanian Agency for Energy Conservation. The agency was dissolved at the beginning of 2010 and transferred as a department within the National Agency for Energy Regulation. The new department currently has two remaining employees and the Government operates the public personnel policy based on IMF recommendations that prevent it to hire more staff.
7. Environment: the Action Plan does not mention any inconsistency related to the environmental impact assessment of renewable energy investments. Still, there is no map

including both protected areas, especially Natura2000 sites, and the renewable energy potential available to the public, so stakeholders are dependent on tardy information procedures ran by the environmental authorities. Most of the times, and especially related to large investments (such as wind power plants), protected areas are first ignored by investors, also due to the difficult access to information. No measure to improve this situation is planned.

8. Access to grid: the Plan states that the grid is old and it does not have enough transport capacity to take over renewable energy, but does not provide measures to overcome this barrier. In practice, most of the costs related to infrastructure improvement are transferred entirely to investors (the plan is confusing related to this aspect and avoids stating this). In the mean time, Romania has a considerable amount of money available from EU funds to improve the electricity grid that it is not being used (the funds under Axis 3 and 4 of the Sectoral Operational Program for the Increase of Economic Competitiveness have not been accessed yet).
9. Small-scale investments: the energy providers' current policy does not allow individuals (natural persons) to use both-way counters, so that households that produce energy from renewables can deliver it in the systems and have financial benefits/compensations from it. This and various other discriminatory practices in applying legislation compel small-scale energy producers (including small companies) to quit the market or prevent them to invest.
10. Access to grid: companies complain that access to grid is given based on un-transparent procedures and that generally large companies are favored. There is no clear public information source regarding the transport capacity of the network in various areas. The legislation states that renewable energy producers are offered priority access to the grid (Law no. 220/2008 amended by Law no. 139/2010), if this does not destabilize the system. But the Plan states the opposite (there is no priority access granted) without mentioning the source.
11. Agrifuels: preventing the impact of direct and indirect land-use change practices is not seen as necessary in the Action Plan. The sustainability certification of biofuels is said not to be applicable since the raw materials will only come from Romania and imported materials or products will be accepted if certified.. No certification, monitoring or impact analysis is taken into account for local production.

Considering all missing information, the illegal adoption procedure of this document (regarding transparency in decision-making) and its unreliability, we urge the European Commission not to accept the Romanian National Action Plan on Renewable Energy submitted under Directive 28/2009 and to recommend to the Romanian Government to follow legal procedures and to carry out a thorough revision of the Plan at national level.

For more information on our complaint please contact Mrs. Elisabeta Teodorescu, president of Climate Action Network Romania, tel. +40 21 3143960, e-mail eliza.teodorescu@rac-ro.ngo.ro.

Yours sincerely,

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