

RENEWABLE ENERGY SOURCES. SOME CONSIDERATIONS ON THE APPROACH OF ENERGY CROPS AT NATIONAL LEVEL TO THE EUROPEAN CONTEXT

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Abstract

The new climatic, industrial, economic and social realities, as well as their evolving perspectives, have led in the last decades to a particularly careful approach to renewable energy sources. Thus, clear objectives for ensuring public regulations and policies favoring the development and use of energy from renewable sources have been set out. Romania has rallied to the European model that aims to ensure energy security with competitive and clean energy. The statistical data show that the progress is considerable and that Romania has mastered the objectives and targets thus assumed. One of the current challenges is to ensure a unitary development of all renewable energy sources that have potential at national level for sustainable development. Among these, special attention is paid to biomass, especially to energy crops. The justification consists, on the one hand, of the very low level of development compared to the actual capacities, and, on the other hand, the intervention of some legislative changes that seem to continue to hinder this development.

Keywords: renewable energy, sources, European objectives, European policies, energy security, clean energy, biomass, energy crops.

JEL Classification: K32, K33

1. Legislative framework relevant at European level

At European level, the Treaty on the Functioning of the European Union² establishes the coordinates of environmental and energy policies by Articles 191³ and 194⁴.

As an assertive promoter of green energy, the European Union has adopted a number of legislative measures to implement the provisions of the Treaty. Among these, the measures in support of sustainable investment in the renewable energy sector are relevant to the subject of this study.

The milestone is marked by the adoption by the European Parliament and the Council on 27 September 2001 of Directive 2001/77/EC on the promotion of electricity produced from renewable energy sources⁵.

Renewable energy sources are, according to the Directive, non-fossil renewable energy sources, namely wind, solar, geothermal, wave, hydro and hydroelectric energy, biomass, waste gas fermentation, gas from sewage treatment plants and biogas.

Among the types of renewable energy sources, biomass represents the biodegradable fraction of products, waste and residues from agriculture, including vegetal and animal substances, forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste.

Biomass is by far the most consistent renewable energy source at the level of the European Union, representing in the year 2015 not less than 63.3% of the total energy production from

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² Published in JO C 326 , 26/10/2012, p. 0001 - 0390.

³ Union policy on the environment contributes to the following objectives: preserving, protecting and improving the quality of the environment; protecting the health of people; the prudent and rational use of natural resources; international promotion of measures to counteract environmental problems on a regional or global scale, and in particular the fight against climate change.

⁴ The Union's energy policy pursues, in a spirit of solidarity between Member States: to ensure the functioning of the energy market; to ensure the security of energy supply in the Union; promote energy efficiency and energy saving as well as the development of new sources of energy and renewable energies; to promote the interconnection of energy networks.

⁵Published in OJ L 283, 27.10.2001, p. 33-40. This was followed by Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels and other renewable fuels for transport, published in OJ L 123, 17.5.2003, p. 42-46. Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources, amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC, is currently in force, published in OJ L 140, 5.6.2009, p. 16-62.

renewable sources⁶. That is why the agricultural and forestry sectors are particularly important in this context.

Also, Eurostat⁷ data for 2016 indicate that among the renewable sources of energy, the most important source at European level was wood and other solid biofuels as well as renewable waste, accounting for 49.4% of primary production energy from renewable sources. At the same time, hydroelectric power ranks second with 14.3% of the total, followed by wind energy by 12.4%.

These data also reflect the outcome of the legislative measures adopted to support measures to develop biomass as a renewable energy source. In this respect, we recall Regulation (EC) 1782/2003⁸, replaced by Regulation (EC) 73/2013⁹ which established common rules for direct support schemes under the Common Agricultural Policy, including measures to support energy crops.

Furthermore, Council Regulation (EC) 1307/2013¹⁰, applicable from 1 January 2015, highlighted the new objective of the Common Agricultural Policy to increase environmental performance by including the mandatory greening component to support climate-friendly and environment-friendly farming practices throughout the Union. The measures to be adopted in this respect must be established in an effective and coherent manner and be suitable for achieving the objective of mitigating the effects of climate change. Essentially, measures must protect the rights and legitimate expectations of farmers, set uniform conditions at Union level and avoid unfair competition or discrimination between farmers.

Other relevant acts to be mentioned are Directive 2003/30/EC¹¹ on the promotion of the use of biofuels or other renewable fuels for use in transport, and Directive 2009/30/EC¹² whereby petroleum companies operating within the European Union provide gasoline which to contain 10% bioethanol.

The proposal for a Directive on the promotion and use of energy from renewable sources¹³ is currently underway, which, among other things (i) underlines the imperative of ensuring public policies favorable to the development and use of renewable energy, (ii) stresses the imperative of ensuring policies predictable public policies in the field for investor protection, and (iii) recognizing the key role of investors in producing renewable energy to meet the targets assumed at European level.

⁶ The Special Report of the European Court of Auditors - Renewable energy for sustainable rural development: significant potential synergies, but mostly unrealised, available at <http://publications.europa.eu/webpub/eca/special-reports/renewable-energy-5-2018/en/>, consulted during October 15, 2018 - November 1, 2018.

⁷ See https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Renewable_energy_statistics, consulted during October 15, 2018 - November 1, 2018.

⁸ Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001, published in the OJ L 270, 21.10.2003, p. 1–69.

⁹ Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003, published in the OJ L 30, 31.1.2009, p. 16–99.

¹⁰ Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009, published in the OJ L 347, 20.12.2013, p. 608–670.

¹¹ Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport, published in the OJ L 123, 17.5.2003, p. 42–46.

¹² Directive 2009/30/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC, published in the OJ L 140, 5.6.2009, p. 88–113.

¹³ European Commission proposal for a Directive of the European Parliament and of the Council on the promotion and use of energy from renewable sources, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52016PC0767&from=EN>, consulted during October 15, 2018 - November 1, 2018.

2. Public policies adopted at European level

One of the great challenges for the European Union is to ensure energy security with competitive and clean energy. This is necessary in the context of climate change, increasing global energy demand and limited access to energy resources.

In response to this challenge, since December 2008, the Climate Change Energy Package¹⁴ has been adopted¹⁵, which includes a series of EU targets by 2020¹⁶, including: (i) reducing greenhouse gas emissions (ii) a 20% increase in the share of renewable energy sources in the total energy consumption of the European Union and, in the case of Romania, the increase of this share by 24%, (iii) a target of 20% 10% biofuels in energy consumption for transport.

The economic crisis has made investors look cautious towards the energy sector. In Europe's liberalized energy markets, the growth of energy from renewable sources depends on private sector investment, which also relies on the stability of renewable energy policy¹⁷.

Despite the existence of a robust framework by 2020, the energy perspective suggests that, in the absence of further interventions, renewable energy growth will decrease sharply after 2020 due to higher costs and barriers compared to fossil fuels. More efforts are therefore needed to ensure the coherence of approaches in different Member States in order to eliminate disturbances and develop renewable energy sources.

A new European Union climate and energy policy framework for the period 2020-2030 was thus proposed¹⁸. It aims to strengthen and increase the growth of renewable energy use, reduce greenhouse gas emissions and propose a new governance system and performance indicators. In particular, the Commission proposes inter alia: (i) to reduce greenhouse gas emissions by 40% compared to 1990 levels, (ii) a target for renewable energy of at least 27% of energy consumption of the Union¹⁹. Therefore, renewable energy must continue to play a key role in the transition to a more competitive, secure and sustainable energy system at European level.

The EU's long-term commitment is to reduce greenhouse gas emissions by 80 to 95% over 1990 levels²⁰. Given the high level of uncertainty over such a far-off horizon, the Commission has looked at a range of possible scenarios in terms of the evolution of energy from renewable sources within the Energy Perspective 2050²¹.

In any of the scenarios analyzed, the share of energy from renewable sources increases substantially, reaching at least 55% in gross final energy consumption in 2050, according to a baseline scenario based on current trends. The share of energy from renewable sources in electricity consumption reaches 64% in the "Energy Efficiency Enhancement" scenario and 97% in the "Increased Renewable Energy Saving" scenario, which includes the storage of a significant amount

¹⁴ At the core of the "Energy - Climate Change" package was the New Energy Policy of the European Union elaborated in 2007 - consult Commission of the European Communities - Communication from the Commission to the European Council and the European Parliament - An Energy Policy for Europe [Sec(2007) 12] Brussels, 10.1.2007 Com (2007) 1 final.

¹⁵ Adopted at the plenary session of the European Parliament on 17 December 2008.

¹⁶ See Europe 2020 Strategy, A European strategy for smart, sustainable and inclusive growth, COM/2010/2020, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52010DC2020&from=en>, consulted during October 15, 2018 - November 1, 2018.

¹⁷ See the Communication from the European Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on Renewable Energy: A Major Energy Market, COM/2012/0271.

¹⁸ See the Communication from the Commission on a Framework for Climate and Energy Policy 2020-2030, COM (2014) 0015, <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%205644%202014%20REV%201>, consulted during October 15, 2018 - November 1, 2018.

¹⁹ The 2030 Framework was embraced by the European Parliament, which adopted its resolution of 5 February 2014 on a Framework for Climate and Energy Policy 2013/2013 (IND), available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2014-0094+0+DOC+XML+V0//EN>, consulted during October 15, 2018 - November 1, 2018.

²⁰ The Commission has analyzed the implications of this objective in the "Roadmap for moving to a competitive low-carbon economy by 2050", available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52011DC0112&from=EN>, consulted during October 15, 2018 - November 1, 2018.

²¹ See Energy Perspective 2050, a Future of Energy, available in Romanian at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2013-0035+0+DOC+XML+V0//EN>, consulted during October 15, 2018 - November 1, 2018.

of electricity to meet levels energy variables provided by renewable sources, even at times when demand is low.

One of the key elements for achieving European objectives is to provide a favorable policy framework²².

3. Relevant legislative framework and public policies adopted at national level

As a Member State of the European Union and by virtue of Art. 194 of the Treaty on the Functioning of the European Union, Romania is obliged to promote and develop renewable energies, among which a major role is played by energy crops.

Thus, in Romania, Law no. 220/2008 establishing the system for promoting the production of energy from renewable sources of energy²³, which, as its name suggests, aims to create an attractive system for investors to develop renewable energies in the national space²⁴.

Practically transposing Directive 2009/28/EC into national law, the framework regulatory act contains categories of renewable resources established at European level and proposes their corresponding definitions.

At the level of public policies, Romania has rallied to European policies.

On the one hand, Government Decision no. 1069/2007 regarding the approval of the Romanian Energy Strategy for 2007-2020²⁵. On the other hand, on November 12, 2008, the Romanian Government debated and approved the National Strategy for Sustainable Development on the horizon of the years 2013-2020-2030, attaining the indicators established by the European policies.

The Energy Strategy underlines the importance of ensuring an attractive investment climate for both foreign and domestic investors, and recalls the existence of increased investment opportunities in the field of unused renewable energy resources. Among the major objectives relevant to this study, we mention the following:

- promoting the production of energy from renewable sources so that the share of electricity from these sources corresponds to the European commitments;
- ensuring investment for the development of the energy sector, including by attracting private capital;
- promoting the use of biofuels;
- improving the institutional and legislative framework, in a transparent manner, in accordance with the requirements of ensuring competitiveness, environmental protection and security of energy supply, as well as the requirements to attract and support investments;
- the development of energy crops both for the production of biofuels and for the production of electricity and heat in cogeneration.

In relation to the cost of use and the amount of resources, the Energy Strategy recognizes that the most suitable renewable resources and technologies used for producing electricity are hydroelectric power stations, wind turbines and biomass-fueled cogeneration plants and biomass and energy for the production of heat solar. Biomass would represent, according to the Strategy, about 50% of Romania's total renewable resource potential.

According to the evaluation of the National Institute of Energy Research and Development, taken over in the Energy Strategy, the national potential of renewable sources is translated as follows:

²² See the Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions - Renewable energy: a major presence in the European energy market - COM/2012/0271, available at <http://www.ipex.eu/IPEXL-WEB/dossier/document/COM20120271.do>, consulted during October 15, 2018 - November 1, 2018.

²³ Republished in the Official Gazette of Romania, Part I, no. 474 of 9 July 2010.

²⁴ The system for promoting the production of energy from renewable resources established by Law no. 220/2008, was authorized by the European Commission in July 2011 by Decision C (2011) 4938 on state aid SA 33134 (20011/N) for Romania - Green Certificates for the Promotion of Electricity Production from Renewable Energy Sources. was amended in 2015 by Decision C (2015) 2886 and in 2016 by Decision C (2016) 8865/2016.

²⁵ Published in the Official Gazette no. 781 of November 19, 2007.

Source	Annual Potential	Application
Solar energy	16.700 GWh	Thermic energy Electric energy
Wind energy (theoretical potential)	23.000 GWh	Electric energy
Hydroelectric power of which less than 10 MW	36.000 GWh 3.600 GWh	Electric energy
Biomass and biogas	88.330 GWh	Thermic energy Electric energy
Geothermal energy	1.940 GWh	Thermic energy

During the period of application of the system for promoting the production of electricity from renewable energy sources established by Law no. 220/2008, 778 producers were accredited. The number of accredited manufacturers at the end of 2017 was 774. Of these, 67 used wind energy, 103 used hydraulic power in power plants with installed power of up to 10 MW, 576 uses solar energy and only 28 uses biomass, including fermentation gas waste and sludge fermentation gas from sewage treatment plants²⁶.

The structure of energy production from renewable resources recorded in 2017 the following data, expressed in GWh²⁷:

Fuel type	2016		2017	
	Gross	Net	Gross	Net
Hydroelectric	18.272	18.077	14.608	14.542
Aeolian	6.590	6.524	7.403	7.332
Biomass	453	448	401	395
Solar	1.820	1.802	1.870	1.850
Geothermal	-	-	-	-
Total	27.135	26.851	24.282	24.119
Total general production	64.472	60.661	63.748	59.823

From the point of view of the share of sources of electricity production in Romania in the year 2017, we notice that the energy produced from renewable sources occupies a considerable percentage, of over 38%, which classifies our country among the European states with positive results.

However, compared to the European average, where the biomass share is over 63% and hydroelectric energy is over 14% of the total renewable energy, the situation in Romania is practically reversed. Thus, hydroelectric power has a share of over 23% of the energy produced from renewable sources and the biomass is almost insignificant, namely 0.57%, as shown in the following table.

Structure by types of primary energy sources of electricity production	Electricity production in Romania in 2017 (%)	Electricity production at international level in 2017 (%)
Conventional sources (coal, fuel oil, natural gas, etc.)	61,80%	86,3%
Renewable sources	38,20%	13,7%
1. Hydroelectric	23,42%	2,5%
2. Aeolian	11,64%	1.6% alongside the others
3. Biomass	0,57%	9,5%
4. Solar	2,55%	1.6% alongside the others
5. Other sources	0,03%	1.6% alongside the others

²⁶ According to the Report on the Monitoring of the Operation of the Electricity Promotion System Produced from Renewable Sources in 2017, prepared by the National Regulatory Authority for Energy, available at <https://www.anre.ro/download.php?f=hKZ%2BiQ%3D%3D&t=vdeyut7dlcecrLbbvY%3D>, consulted during October 15, 2018 - November 1, 2018.

²⁷ According to the National Report of 31 July 2018 issued by the National Energy Regulatory Authority for Similar Institutions of the Member States, members of the Council of European Energy Regulators - ECER, the Agency for the Cooperation of Energy Regulators and the European Commission, available at <https://www.anre.ro/ro/legislatie/surse-regenerabile/rapoarte-garantii-certif-verzi>, consulted during October 15, 2018 - November 1, 2018.

The renewable energy sources at international level are composed of the following energy categories: 69.5% biomass, 18.6% hydroelectricity, 4.4% aeolian, 4.3% geothermal, 3.3% solar.

Regarding the evolution of renewable energy production at national level, we note that the most cumbersome evolution is biomass, although, as mentioned in the Energy Strategy itself, it has a huge potential.

4. Current situation at national level. The premise of a step back

As mentioned above, biomass is the biodegradable fraction of products, waste and residues in agriculture, including vegetal and animal substances, forestry and related industries, and the biodegradable fraction of industrial and municipal waste.

At national level, energy recovery of waste is an insignificant resource, with about 1% of waste being recovered. However, as in other European countries, biomass production in energy crops could and should be a major concern.

The list of energy crops intended for the production of biomass used for electricity generation was approved by the Order of the Minister of Agriculture and Rural Development no. 46/2012²⁸, among which rape, corn, energy spade, energetic poplar, giant reed, grass-elephant, princess tree, millet, topinambur, energy grass, etc.

However, crops for the production of biomass used for electricity production occupied in 2005 approximately 5,000 ha of arable land. However, Romania's total arable land is over 14,400,000 ha, which is equivalent to an occupancy rate of 0.025% of the total arable land area. Also in 2015, the area of agricultural land declared uncultivated in Romania according to the Agency for Payments and Intervention for Agriculture was 153,227.57 ha.

Against this background, contrary to the legislation, principles and objectives assumed at European level, there was a regress that could not be explained at national level. Thus, in contradiction with the evolution and prospects established at European level, Law no. 186/2017 for the modification and completion of the Land Fund Law no. 18/1991, respectively the Order of the Minister of Agriculture and Rural Development no. 304/2017²⁹.

In particular, by art. I point 6 of the Law no. 186/2017, art. 92 para. (4) of the Law no. 18/1991³⁰, was amended as follows: "*Nonagricultural energy crops can be set up only on the arable land of the IV-grade V-grade, established by the pedological and agrochemical offices. The minimum distance to which these crops are placed in relation to other neighboring agricultural crops is at least equal to the height of the energy crop matured*".

Also, by art. III par. (4): "*The list of non-agricultural energy crops shall be established by order of the minister of agriculture and rural development, within 30 days from the date of entry into force of this law*".

According to Order no. 304/2007, the list of nonagricultural energy crops is represented by seven of the energy crops, namely energy lizard, elephant grass, poplar, giant reed, tree prince, oil shrub, energy grass and dog milk.

In this context, it is necessary to observe the classification of agricultural land in order to understand the impact of the significant reduction of the possibilities of cultivation of some categories of energy crops. Thus, according to Order no. 26/1994 on Methodological Norms in application of Law no. 16/1994³¹, the agricultural land classification is made on the following quality classes:

"Class I - soils with very fertile, deep, textured, permeable texture, unaffected by degradation phenomena (salarisation, erosion, landslides, excess moisture, etc.) on flat surfaces or very slightly inclined under climatic conditions temperature and favorable rainfall for crops.

²⁸ Published in the Official Gazette no. 162 of 12 March 2012.

²⁹ Published in the Official Gazette no. 738 of 14 September 2017.

³⁰ Published in the Official Gazette no. 598 of 25 July 2017.

³¹ Published in the Official Gazette no 183 of 19 July 1994.

Class II - Soils with deep, fertile soil with medium or medium-fine texture, with good or medium-low permeability, poorly affected by degradation phenomena (saltiness, erosion, excess moisture, etc.) weakly inclined in climatic conditions and crop favorable precipitation.

Class III - Areas of medium, fertile, deep or moderately deep soil with medium, medium-thickness or fine texture, moderately affected by degradation phenomena (saturation, acidification, erosion, excess humidity, etc.) medium tilted in climatic conditions of temperature and favorable rainfall for crops.

Class IV - lands with poorly fertile soils, often skeletal or hard rock, at low depth, with varied texture (coarse to fine), strongly affected by degradation phenomena (saturation, acidification, erosion, landslides, active, excess humidity, etc.) in less favorable climatic conditions for agricultural crops.

Class V - Soils with very poor fertile soils, unsuitable for arable use, very strongly affected by degradation phenomena (erosion, excess humidity, etc.)."

The distribution of land in the year 2015 on the five categories can be exemplified by the following table, according to the data of the National Research and Development Institute for Pedology, Agrochemistry and Environmental Protection - ICPA Bucharest³²:

Use	Cartographic surface	Of which on quality classes				
	Ha /% of total agricultural	Clasa I	Clasa a II-a	Clasa a III-a	Clasa a IV-a	Clasa a V-a
		Ha /% of total agricultural	Ha /% of total agricultural	Ha /% of total agricultural	Ha /% of total agricultural	Ha /% of total agricultural
Arable	9.243.740,59 64,05%	577.068,34 6,24%	2.609.900,94 28,23%	3.604.394,52 38,99%	1.777.677,82 19,23%	674.698,97 7,3%
Total agricultural	14.431.630,93 100					

This new regulation thus restricts access to non-agricultural energy crops, prohibiting them from cultivating three-quarters of the total agricultural area available at national level.

In order to identify the rationale behind this unexpected policy orientation at national level, we tried first of all to analyze the data that I have detailed above.

Referring to Romania's total agricultural area to areas currently occupied by non-agricultural energy crops, we note that there is such a disproportion that the latter are absolutely insignificant by occupying about 0.035% of the total.

Along with the evolution of nonagricultural energy crops in the last eleven years, it is clear that they are not fit to reach a relatively short or medium term representative of the total agricultural area.

Last but not least, we note that arable land not cultivated is more than thirty times larger than non-agricultural energy crops.

Therefore, any potential conflict or potential danger to the areas allocated to crops destined for the production of human or animal food is out of the question.

Having established this, I proceeded to identify the rationale presented by the legislator by the explanatory statement. According to the explanatory memorandum drafted by the initiating parliamentarians, the legislative proposal subsequently became Law no. 186/2017 took into account the provisions of the Treaty concerning the accession of the Republic of Bulgaria and Romania to the European Union, signed by Romania in Luxembourg on April 25, 2005. According to the initiators, through the Accession Treaty Romania has assumed the obligation to maintain the area of permanent pasture declared to the Commission on 1 January 2007. Taking into account the number of registered applications for changing the land use category of permanent grassland, a situation which has the potential to reduce the area under permanent grassland below that declared by the Commission on 1

³² Annual Report on Quality of Land in Romania for 2015, available at <https://www.icpa.ro/>, consulted during October 15, 2018 - November 1, 2018.

January 2017, the initiators addressed the legislative proposal to the Permanent Bureau of the Chamber of Deputies.

Therefore, the unique intent extracted from the explanatory memorandum of the new legislative regulation was exclusively the protection of permanent grasslands in Romania, which, of course, does not compete with those occupied or potentially occupied by the energy crops.

Next, in search of the same reason, I proceeded to analyze the content of Order no. 34 of 2017, as well as the acts underlying its issuance. From no public act, there is no justification either for the necessity of the legal interdiction or for the technical, scientific and legal criteria which have underpinned the distinction between energy and energy cultures or which have devastated the establishment of the list of the seven types of crops nonagricultural.

Essentially, therefore, it can be appreciated that we are in the presence of a legislative measure that does not respect the minimum rules established by the provisions of art. 20-34 of the Law no. 24/2000 regarding the normative technical norms for the elaboration of normative acts³³. Thus, the concepts and notions used appear to be unclear, the socio-economic, financial or legal impact is not identified, there is no verification of the existence of a proper statement of reasons in relation to the subject in question, which is not intended by the initiators and the original explanation of reasons has been reconsidered, transitional situations are not regulated, it does not seem to take into account the objectives, policies, regulations and guidelines established at European level.

As regards the administrative act issued under the new normative act, it is noted that it is devoid of any technical, scientific or legal reasoning. For example, the Order does not explain why a nonagricultural energy culture and an agricultural energy crop could be distinguished, for example maize, when all the cultivated crops would be in both situations exclusively for electricity production, and not human or animal feed.

In view of the above, the direct practical consequence of interfering with these normative changes can be translated by creating a seemingly discriminatory regime between energy cultures, potentially damaging investors in the field, and affecting their confidence, the protection and predictability that the national system would be had to guarantee them, but especially by substantially affecting the development of energy crops in Romania.

It is clear that these measures are inconsistent with the European objectives of promoting electricity produced from renewable energy sources, supporting climate-friendly and environment-friendly farming practices and promoting the use of biofuels.

At the same time, they do not contain any motivation and no legal and technical justification of the subclassification of energy cultures, introducing the concept of nonagricole that can not even be identified in the Explanatory Dictionary of Romanian Language.

Given the longer-term business plans of investors in the field, their rights and legitimate expectations³⁴ are being questioned as a result of an untimely limitation in non-agricultural energy crops. This is all the more so since the lack of transitional rules increases the level of uncertainty. Taking, for example, the situation of the elephant grass culture, which once cultivated has recorded a production for almost 20 years, it is legitimate to ask the investors if they can patrol this culture after the enactment of Order no. 34 of 2017, if it occupies a third class agricultural land.

³³ Published in the Official Gazette no. 260 of 21 April 2010.

³⁴ As has been rightly recognized in the literature, the principle of legal certainty essentially expresses the fact that citizens must be protected "against a danger that comes from the law itself, against insecurity which it created or which it risks to create it" – S. Popescu, C. Ciora, V. Țândăreanu, *Aspecte practice de tehnică și evidență legislativă*, „Monitorul Oficial” Publishing House, 2008, p. 7. The Court of Justice of the European Communities has held that the principle of legal certainty forms part of the Community legal order and must be respected both by the Community institutions and by the Member States when they exercise the prerogatives conferred by the Community directives - Case C-381/97, Belgocodex, [1998] ECR I-8153, par. 26. In its case-law, for example in *Marcks v. Belgium*, 1979, the European Court of Human Rights also emphasized the importance of respecting the principle of legal certainty, which is necessarily inherent in both the law of the Convention and Community law. The principle of legal certainty is correlated with another principle, developed in Community law, namely the principle of legitimate trust. According to the jurisprudence of the Court of Justice of the European Communities (see the cases of *Facini Dori v. Recre*, 1994, *Foto Frost v. Hauptzollamt Lübeck-Ost*, 1987), the principle of legitimate expectation requires that legislation be clear and predictable, consistent and coherent; also requires the limitation of the possibilities of amending the legal norms, the stability of the rules established by them.

Of course, the issues that the new regulation is much larger and more complex, and with regard to them we have neither the fall nor the expertise to pronounce ourselves. Equally, in a study of these dimensions, we could not even exhaust all its potentially negative effects, as we have established that the legislator and the administrative authority themselves did not carry out impact studies, further reinforcing the degree of uncertainty. What we can see, however, is that, at least at first glance, this regulation is a step back in the evolution and support of energy production from a renewable source that has a huge potential at national level. This contradicts, as I have said, European orientation, but even national guidance and policies adopted at national level.

5. Conclusions

The objective of ensuring energy security can only be achieved by using all renewable energy sources and by ensuring a balanced mix of these. The potential of these sources at the national level is a particularly generous one, which is a solid foundation for a clean energy future.

Romania has made remarkable progress in the production of renewable energy, and this is a real duty to continue in the same direction. Relying on European values and objectives, by implementing concrete measures and by providing an appropriate legislative framework, these developments have been possible. Where investments have not been sufficiently stimulated and the legislative framework has not met the real needs, some categories of renewable sources have remained far from reaching their potential. They even remained at insignificant levels, as is the case with biomass in general and energy crops in particular.

Against this background, as well as observing the weightings of renewable energy categories at European level, compared to those recorded at national level, a new regulation that creates the premises of defending the development of the biomass source from the perspective of energy crops seems to contradict the natural direction of development. Also, in the absence of a legislative or infra-legislative definition of the rationale and impact of this regulation, its usefulness can not only be verified, but a number of arguments can hardly be contradicted.

Thus, in order to ensure a favorable climate for the development of renewable energy, priority should be given to clarifying the current situation and, above all, to reverting to the national and European objectives already assumed and applying prompt and effective measures to eliminate the negative and potential negative effects.

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