Major risks of GEO 27/2020

GEO no. 27/2020, amending and supplementing the Petroleum Law no. 238/2004 was issued in a reference to enforcing the national security interests, by transposing art. 2 (2) of Directive 94/22/CE.

We consider that, under the current form, **the new amendments pose a significant risk of excessive interpretation of the EU Directive** and as such are **prejudicial to the economy of Romania** with the potential to **discourage confidence from investors** and **reduce investments.** This may translate in **job losses, impediments in re-launching the economy in the post-emergency period** and, by implication, in **damaged revenue for the State**,

The following infographic explains our concerns and presents the real impacts that the law as amended may have.

The State can deny awarding new petroleum agreements to non-EU companies, for reasons of national security

LESS INVESTMENTS IN THE OIL AND GAS SECTOR

The international Upstream sector requires companies investing large amounts of capital upfront with the risk that they may not find oil and gas.

This aspect of the new law will **discourage international investor confidence** and **reduce the competition for licenses and projects in Romania**.

What this means is that **the potential rewards for the Romanian State Budget will be reduced** with fewer companies willing to invest here. This will impact the 11th Licensing Round with fewer players and lower investments

Existing petroleum agreements can be unilaterally terminated by the Government, at the proposal of the competent authority

IMPEDIMENTS TO SAFEGUARDING PETROLEUM AGREEMENTS

The **possibility of the State to unilaterally terminate concession agreements constitutes (at least) a violation of the binding rules of a contract**, as well as a violation of the existing BITs, entitling titleholders to claim compensations.

Lacking a related compensation procedure or express conditions of exercising the termination right by the Government, through an adjusted and clear secondary legislation, ot only has the potential to imply **significant risks for investments** but also to expose the State to **litigation risks**, with high economic impact.

LOSS OF BUSINESS CONFIDENCE

The transposed article in the Directive does not expressly provide for the termination of ongoing concessions for national security reasons, but introduces an exception to the non-discriminatory access to hydrocarbons right.

This amendment will directly **further diminish investor confidence** and **reduce the number of and size of investments being made in Romania**, all of will **impact employments, skills development and revenues for the State Budget**

Change of control in petroleum agreements titleholders is subject to Government approval, at the proposal of the competent authority

BREACH OF PETROLEUM AGREEMENTS' STABILITY

At NAMR's proposal, the Government may decide to maintain, to amend or to unilaterally terminate the respective petroleum agreement.

The GEO brings a major change to the way the law operated and as such will have a major **impact on investment confidence and investment**. We expect the consequences will be to impact the way many oil companies raise money for projects and as such there will be less investment, **adversely affecting an already embattled Romanian economy**

Transfers of petroleum agreements are subject to Government approval, at the proposal of the competent authority

EXTENDED DURATION OF PETROLEUM AGREEMENTS' TRANSFER AND EXECUTION

Until now, the transfer of a petroleum agreement was falling exclusively under NAMR's authority, while the Government Decision would be required in limited cases, including for the entry into force of the petroleum agreement.

As practice shows, the issuance of Government Decision approving petroleum agreements for the last licensing round took, in some cases, years, the start of operations being delayed with a similar time.

Bringing in new investors to projects is one of the most common place transactions in the Upstream industry worldwide to bring in fresh capital for investment and to share risk.

The amendments to the law will **make this process slow and uncertain, discouraging investment and investors with a negative effect on the Romanian economy and jobs**

COMPETITIVE DISADVANTAGE COMPARED TO OTHER EUROPEAN HYDROCARBON PRODUCING COUNTRIES

The GEO introduces an additional conditionality to transfers, namely after the proposal made by NAMR, the Government Decision is mandatory.

The provision creates a **double tier approval process,** without clear deadlines, which may render the **transfer conditions burdensome in comparison with other EU countries.**

ROPEPCA
Romanian Petroleum Exploration and Production Companies Association