

No. 28991/11.07.2025

NOTE
to the Ordinary General Meeting of NPG CO. TRANSELECTRICA S.A.

1. Title: Note regarding the approval of the purchase by NPG CO. TRANSELECTRICA S.A. (the Company) of consultancy services and legal assistance and representation before the courts of law in order to defend the Company's interests in connection with the implementation and challenge of the Romanian Court of Auditors' Plenum Decision No. 47/23.01.2025 and, in subsidiary, the Compliance Audit Report No. 6000/23.01.2025 and the Management Letter No. 6001/23.01.2025, prepared by the Court of Auditors.

2. Note type:

Information

Opinion

X Approval

3. Proposed Decision:

Approval of the purchase by NPG CO. TRANSELECTRICA S.A. of consultancy services and legal assistance and representation before the courts of law, respectively, in order to defend the Company's interests in relation to:

- a) the implementation of the recommendations of the external public auditors;
- b) to challenge the acts issued by the Court of Auditors following the compliance audit mission carried out at NPG CO. Transelectrica SA in relation to the recommendations which, following the internal analysis, the Company considers unjustified according to the Directorate's Decision no. 140/2025.

4. Legal basis:

- Art. I para. (3) of GEO No. 26/2012 regarding certain measures to reduce public spending and strengthen financial discipline and amending and supplementing certain normative acts pursuant to which para. (3) "In duly justified situations in which the legal activities of consultancy, assistance and/or representation required by state-owned enterprises, national companies and commercial companies, as well as the autonomous regions referred to in para. (1), cannot be provided by the specialized legal staff employed in these entities, services of this nature may be purchased, under the conditions of the law, only with the approval and mandate of the representatives of the State or of the administrative-territorial divisions in their governing bodies: a) by the coordinating chief authorizing officer, in the case of those in which the State is a sole or majority shareholder (...)".

- Art. 14 para. (1), let. j) Articles of Incorporation of NPG CO. Transelectrica S.A. updated pursuant to the Decision of the Extraordinary General Meeting of the Shareholders no. 1/26.01.2023 in force on 30.03.2023 as per the Decision of the Directorate no. 21/20.02.2023.



5. Background:

As of 04.09.2023, the Court of Auditors carried out a compliance audit assignment with the objective of ***"obtaining reasonable assurance that the salaries and other entitlements granted to the company's personnel, as well as contracting and procurement (investment activity) are in compliance with the relevant legislation, rules and regulations that were in force during the period 2020-2022"***.

By Letter no. 10556/11.03.2025, the Company submitted, to the Court of Auditors of Romania, the Preliminary Complaint lodged pursuant to art. 7 of Law no. 554/2024, against the Decision no. 47/23.01.2025, as well as against the Compliance Audit Report no. 6000/23.01.2025 and the Management Letter No. 6001/23.01.2025, requesting the annulment of the recommendations set out in paragraphs 1.1(5.1), 1.5 (5.5), 1.6 (5.6), 1.12 (5.12 - in part), 1.13 (5.13 - in part), 1.14 (5.14 - in part) and 1.16 (5.16).

By Letter no. 20216/04.06.2025, the Court of Auditors of Romania rejected the preliminary complaint lodged by the Company *as inadmissible* regarding the request for partial annulment of the Financial Audit Report no. 6000/23.01.2025 and the recommendations in Management Letter no. 6001/23.01.2025 and *as unfounded* regarding the request for annulment of the Court of Auditors' Plenum Decision no. 47/23.01.2025.

According to art. 33 para. 3 of Law no. 94/1992, *"In cases where deviations from legality and regularity are found to have caused losses, the management of the audited public entity shall be notified of this state of affairs. **The management of the audited entity shall be responsible for determining the extent of the damage and taking measures to recover it**"*.

In the Compliance Audit Report at NPG CO. Transelectrica S.A. no. 6000/23.01.2025 regarding recommendation 5.1(1.1) it was noted: granting of bonuses of a special nature and salary increments ***"under conditions other than those established by the Collective Labour Agreement"***, and the aspects noted are exclusively related to employees' rights - evaluation of individual performance, mention of actions with major impact, clear criteria for the distribution of amounts/person, purpose of granting increments, public holiday or special event. However, these aspects are exclusively related to the provisions of the CLA and the employer's obligations and the correlative rights of the employees. In this regard, it should be noted that the authority that has the express role of verifying the legality and compliance with the provisions of the CLA is the Labor Inspectorate, according to art. 6 para. let. A) b) of Law no. 109/1999 on the establishment and organization of the Labour Inspectorate, an entity which has not so far reported any kind of irregularity, illegality or improper action in relation to the application of the CLA at the level of NPG CO. Transelectrica S.A. Moreover, regarding the manner of application of the CLA, the trade union partner has not raised any issues regarding non-compliance with clauses.

In this context, it is necessary to carry out a legal analysis and, subsequently, to take steps to implement and challenge (including a request for suspension of effects) the acts issued by the Court of Auditors.



6. Necessity/utility/opportunity:

Challenging acts issued by the Court of Auditors is atypical, since it is necessary to analyze issues such as the competence of this institution to find a breach of the Collective Labour Agreement, and, from the point of view of damages, it is necessary to verify the legal conditions for finding the existence and amount of alleged damages, as well as possible ways of recovering them, if necessary, while respecting the rights and obligations of the Company.

Although there is a general judicial practice in the matter of challenging acts issued by the Court of Auditors, it is not applicable to the specific elements of the Company's situation identified above.

In parallel with challenging the acts issued by the Court of Auditors, the elements and arguments for implementing the recommendations need to be identified, given that the formulation of approximately 2000 statements of claim for recovery of the amounts, without rigorous substantiation by an external entity with experience in the field and an objective approach, is not an appropriate or reasonable measure, since:

- it would entail the payment by NPG CO. Transelectrica S.A. of approximately 2,000 legal stamp duties related to each dispute, as well as other expenses inherent to any legal proceeding; for the total amount of RON 28,990,440 (12,073,272 (premiums)+16,917,168 (additions)), the stamp duty is RON 293,509.40, but in reality the stamp duty payable will be higher, because it is paid individually and separately for each claim against each employee;

- for the amounts paid to the employees until May 2022, the 3-year statute of limitations provided for by art. 171 of the Labour Code has expired, so that the final outcome of the litigation for the recovery of these amounts is predictably unfavourable, and Transelectrica S.A. will also have to bear the legal costs incurred by the employees;

- for the amounts paid to employees, for which the limitation period has not expired, a solution of annulment, by the contentious court, of the measure contained in the Audit Report on the recovery of special bonuses and salary increments granted in the period 2020-2022, would also lead to an unfavourable solution for the Company in the disputes regarding the recovery of the amounts, with the consequence that Transelectrica S.A. will bear, separately from its own expenses, the legal costs incurred by the employees.

However, in accordance with Article 64 para. 1 of Law no. 94/1992, *"The failure to recover losses, as a result of the failure of the entity's management to comply with the measures submitted by the Court of Auditors, constitutes an offense and is punishable by imprisonment from 3 months to one year or a fine"*.

Under these circumstances, the steps taken should avoid causing a serious impact on the Company, both from an organizational and functional point of view, as well as from a legal and corporate point of view.

In this context, we consider that all possible legal and procedural steps must be initiated and carried out in order to protect the Company's legitimate rights and interests and maximize the chances of defending it.



Also, given that the situation involves the analysis of rights arising from the Collective Labour Agreement, involving approximately 2,000 employees, we consider it essential to ensure a high degree of impartiality and objectivity in the management of this case, which can be best achieved by involving an external, independent team of legal professionals with expertise and experience in handling this case.

Further, the Company considered the findings and recommendations relating to 1.5 (5.5), 1.6 (5.6), 1.12 (5.12 - in part), 1.13 (5.13 - in part), 1.14 (5.14 - in part) and 1.16 (5.16), respectively, as unjustified:

- Failure to comply with the contractual terms in the case of a works contract the subject matter of which has not been completed within the contractually stipulated period and has been terminated by the contractor following his insolvency;
- Adjustment of the price of a works contract under conditions other than those laid down by law, i.e. without taking account of the exchange rate difference by which the contract price was increased, the contractor invoicing the value of the works carried out in euro at the exchange rate on the date of invoicing;
- Failure to comply with the contractual terms in the case of a works contract by extending the duration of certain stages beyond the time-limit set in the contract for their completion, failure to calculate penalties for failure to complete the contractual stages on time and making payments for goods and services which have not been fully provided by the contractor;
- Unjustified extension of the execution period for investment contracts;
- The acceptance of unjustified price adjustment in the case of sectoral procurement contracts in respect of the contractor's profit.

In this regard, we propose to analyze and take into account the necessary, useful and opportune nature of outsourcing legal services by joining a law firm with professionals specialized in corporate law litigation, with specific reference to the field of corporate governance of state-owned enterprises, labour law, civil law, etc.

A. Complexity of the case

- Legal novelty: The litigation involves issues not explored so far within the Company in previous experiences in similar situations, requiring a specialized approach in view of the amendment to the Court of Auditors Regulations approved by Decision 629 of 20.12.2022.

- Intersection of several areas of law: Advanced expertise is required in corporate law, corporate governance, administrative litigation and labour law, areas that go beyond generalist expertise.



B. Risks of inefficient approaches

- Organizational and legal impact: Failure to take consistent and effective steps could create additional damage and affect the Company's credibility, including with partners and investors.

C. Limitations of the Litigation Department - Legal and Litigation Department

- The Litigation Department within the Legal and Litigation Directorate is already involved in the management of a significant number of litigation and other critical activities. Assigning it exclusively to this case would adversely affect other operational processes, especially in the context of the legal novelty as mentioned in point A.

- Limited Specialization: The subject matter of the proceedings requires interdisciplinary knowledge and for which there is no similar practice at court level.

7. Subject matter of legal services:

The law firm to be selected as a result of the fulfillment of the criteria aimed at providing expertise in the area of reference (administrative contentious, corporate law, litigation falling within the scope of GEO 109/2011, labour law) will essentially provide the following services:

1. Legal analysis of the documents drawn up by the Court of Auditors and the documents on which they are based;
2. Identification of legal solutions to implement the Court of Auditors' recommendations;
3. Outlining the procedural strategy to be followed;
4. Formulation/completion of the action for the annulment of the documents issued by the Court of Auditors for the recommendations that the Company considers unjustified;
5. Formulating the request to suspend the effects of the documents issued by the Court of Auditors;
6. Providing legal assistance and representation before the courts;
7. Depending on the court's decision, promotion and support of ordinary and, if necessary, extraordinary appeals against the decisions to be rendered, legal assistance and representation of the Company in the appeals and, if necessary, in the retrial.

8. Legal framework for outsourcing

According to Art. (3) of GEO 26/2012, the outsourcing of legal services is allowed in duly justified situations, such as:

- High complexity of the case;
- The need for interdisciplinary knowledge;
- The need for external resources in order to substantiate enforcement measures and to challenge the documents issued by the Court of Auditors in a coherent and efficient manner.

9. Benefits of involving a law firm

- Superior expertise: A team of specialized lawyers can analyze the case in detail, offering effective and innovative solutions.



- Strategic approach: Strategies devised by external specialists significantly increase the chances of success, both at first instance and in possible appeals and follow-up proceedings.
- Operational efficiency: Outsourcing allows the in-house legal team to focus on other critical activities for the company.

10. Risks in lack of approval:

- The risk of improper representation of the Company in the lawsuits in question may result in financial and credibility damage;

On the basis of the arguments presented, we consider that outsourcing legal services is necessary, useful and opportune, and that it is in the company's interest to benefit from the support of a team of lawyers specialized in these disputes.

11. Approval:

General Meeting of Shareholders

DIRECTORATE,

**Chairman
Ștefăniță
MUNTEANU**

**Member
Victor
MORARU**

**Member
Vasile Cosmin
NICULA**

**Member
Cătălin-Constantin
NADOLU**

**Member
Florin-Cristian
TĂTARU**

