MPR PARTNERS

WIND TURBINES - HOW TALL IS TOO TALL?

1. Context

Romania has always been an attractive country in terms of wind energy potential. Due to the South West, North East, Central West and Dobrogea regions, Romania has been propelled to the second place in terms of wind energy potential in Europe. Given these more than favorable conditions, there is no surprise that Romania has caught the eye of many investors in wind energy production.

While setting up a wind power plant ("**WPP**") involves obtaining various authorisations, permits and endorsements, as is the case of any other electricity production capacity, the endorsement of the Romanian Civil Aviation Authority ("**RCAA**") requires special attention.

2. Obtaining the endorsement of the RCAA

The endorsement of the RCAA is needed in order ensure that WPPs do not interfere with the flight paths destined for aircrafts. These flight paths are approved by the Romanian Administration of Air Traffic Services ("**ROMATSA**").

In this context, one must bear in mind that, taking into account the tower and the blades, WPPs may reach heights of up to 180 – 230 meters.

Additionally, depending on the elevation of the land on which the WPPs would be placed, these 230 meters could be easily surpassed. In these circumstances, it would not be uncommon that the WPPs would interfere with the flight paths, especially if located in the vicinity of airports, aerodromes or airfields.

Despite these issues arising at a first glance, WPP developers must not see such circumstances as the end of their intentions to set up business. In order to avoid receiving a negative endorsement from the RCAA for their projects, developers have two options:

(i) opting for smaller wind turbines with a shorter tower;

(ii) seeking to raise the flight path ceiling.

Choosing to install smaller turbines for their WPPs may be the most straightforward option. However, this may not always be the best solution, as more than one issue could arise in this situation. As the wind intensity greatly varies at different altitudes, should developers choose to opt for smaller turbines, they may not be able use the wind potential at an optimal level.

Seeking to raise the flight path ceiling may seem a complicated and tedious process, but that is not precisely the case. While it may indeed require a certain amount of time and the involvement of specialty consultants and various stakeholders, the process in itself is not overly complicated, as will be detailed below.

Additionally, the costs incurred with such a process are not unreasonable in comparison with the advantages they may bring to the project and in comparison to the overall cost of the project.

3. Raising the flight path ceiling

As mentioned above, while not overly complicated, the process of raising the flight path ceiling requires the involvement of several parties.

In first instance, an aeronautical study carried out by specialty consultants is required. This study must present proposals to modify the values for the minimum heights. Additionally, such proposals must emphasise that the safety and performance of air traffic is not affected.

It must be however noted that private individuals/companies may not directly request the modification of the flight path ceiling. According to the Romanian Air Code, only aerodrome managers, aircraft operators or public administration authorities may request such changes from ROMATSA.

In this respect, it is most advisable for investors to liaise with the representatives of the public administration authorities or the other abovementioned stakeholders to seek out their assistance in this respect, while presenting them with the aeronautical study. The stakeholders will then forward the request alongside the study and other relevant documents to ROMATSA, while looping in the RCAA.

Upon analyzing both the request and the study, ROMATSA will have to issue a decision on the same. If ROMATSA will issue an official decision to modify the flight path ceiling, the RCAA will issue a favourable endorsement. In the absence of such an official document from ROMATSA, the endorsement of the RCAA will not be issued.

This entire process described above may take up to four or five months.

4. Conclusions

Considering that solutions can be found, it is important for investors to keep in mind that, when scouting for possible locations for their WPPs, to not exclude from the get-go areas with great potential only because they may be affected by the flight paths. If the area has vast potential for producing wind energy, it may be worth investing both the time and resources into conducting the necessary studies and seek the change of the flight path ceiling in order to obtain long-term benefits.

*****

Gelu Maravela

Founding Partner

gelu.maravela@mprpartners.com

Carmen Bănică

Associate

carmen.banica@mprpartners.com

Sonia Benga

Associate

sonia.benga@mprpartners.com