



## FONDUL PROPRIETATEA

To Bucharest Stock Exchange  
Romanian National Securities Commission

*The current report according to Art. 113 point A, paragraph (1) letter b) of the Romanian National Securities Commission Regulation no. 1/2006 regarding the issuers and the operations with securities, as subsequently amended and completed, as well as the provisions of art. 99 in the Code of the Bucharest Stock Exchange, Title II, Issuers and Financial Instruments*

Report date:	28.03.2011
Name of the issuing entity:	SC Fondul Proprietatea SA
Registered office:	78-80 Buzesti St., 7 <sup>th</sup> floor, district 1, Bucharest, postal code 011017
Phone/fax number:	Tel.: + 40 21 200 9600; Fax: +40 21 200 9631
Sole Registration Code with the Trade Register Office:	18253260
Order number in the Trade Register:	J40/21901/2005
Subscribed and paid capital:	13,778,392,208 RON
Regulated market on which the issued securities are traded:	Bucharest Stock Exchange

Important events to be reported: S.C. Fondul Proprietatea SA ("The Fund") -- Update regarding legal action against S.N.G.N. ROMGAZ S.A. Mediaş ("Romgaz"):

Franklin Templeton Investment Management Ltd. United Kingdom Bucharest Branch, in its capacity of Sole Director and Fund Manager of the Fund hereby publishes the Commercial Decision no. 146/CC of 19 January 2011 issued by the Sibiu Court in the file no. 5521/85/2010, as attached to the present.

SC Fondul Proprietatea SA („The Fund”) reminds its shareholders that on the 19 January 2011 the Sibiu Court rejected the request made by the Fund against S.N.G.N. ROMGAZ S.A. Mediaş (“Romgaz”) for the annulment of the General Shareholder’s Meeting Decision no.12 from 30 November 2011, which approved a donation of RON 400 million to the Romanian State.

As stated before the Fund will appeal the court decision by 8 April, 2011.

Franklin Templeton Investment Management Ltd. Bucharest Branch, as Sole Administrator of Fondul Proprietatea, would like to reiterate its commitment to pursue all legal measures with a view to protecting the value of the underlying companies within the Fund in the best interest of all Fondul Proprietatea shareholders.

Franklin Templeton Investment Management Ltd United Kingdom Bucharest Branch, in capacity of Sole Director of S.C. FONDUL PROPRIETATEA S.A.

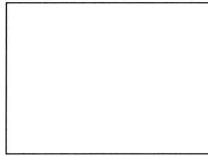
Grzegorz Maciej KONIECZNY

Legal Representative of Franklin Templeton Investment Management Ltd United Kingdom Bucharest Branch, in capacity of Sole Director of S.C. FONDUL PROPRIETATEA S.A.

Translation from Romanian language

ROMANIA  
SIBIU TRIBUNAL  
11 VICTORIEI BD.  
SIBIU  
ADMINISTRATIVE COURT

FILE NO. 5521/85/2010



Date of presentation

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ROMANIAN POST
No. 103/P/5330/2009
Validity - permanent

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**COMMUNICATION**

To,

Name S.C. FONDUL PROPRIETATEA S.A., its capacity in the trial - Plaintiff, domicile or residence:  
Bucharest, district 1, 78-80 Buzesti St., 7<sup>th</sup> floor  
S.C. FONDUL PROPRIETATEA S.A.

Registered mail No. ....19809.....

S.C. FONDUL PROPRIETATEA S.A.		
ENTRANCE	NO. 456	
day 23	month 03	year 2011

Date of arrival



City Bucharest  
District 1  
Zip code  
Post office no.....

Post seal

ROMANIA  
SIBIU TRIBUNAL  
11 VICTORIEI BD.  
SIBIU  
ADMINISTRATIVE COURT  
FILE NO. 5521/85/2010

COMMUNICATION  
CONCLUSION OF THE CIVIL (SECRET) COURT MEETING  
NO. 146/2011 FROM January 19, 2011

S.C. FONDUL PROPRIETATEA S.A., Bucharest, com. Sect. 1, 78-80 Buzesti St., we are herewith communicating you the copy of the civil ruling no. 146/2011, given on January 19, 2011, by SIBIU TRIBUNAL, ADMINISTRATIVE COURT.

PARAPH OF PRESIDENT OF THE COURT  
(seal)

*Illegible signature*  
*Illegible round seal*

County-clerk,

*Illegible signature*

ROMANIA

SIBIU TRIBUNAL  
ADMINISTRATIVE COURT

File no. 5521/85/2010

RULING ON COMMERCIAL MATTERS NO.146/CC  
Meeting of the Counsel Chamber from January 19, 2011  
Court panel consisting of:  
CHAIRPERSON Elena-Carmen Poiana  
County-clerk Silvia Husea

Pending the Commercial matter trial regarding the plaintiff S.C. FONDUL PROPRIETATEA S.A. and the respondent SOCIETATEA NATIONALA DE GAZE NATURALE ROMGAZ S.A. BY CHAIRPERSON OF THE BOARD OF DIRECTORS APAN I., having as object the action for annulment of the GMS decision.

Upon the calling of the parties within the meeting of the counsel chamber for the plaintiff is present lawyer Codrin Taralunga, for the respondent is present lawyer Mintilie Bianca,

The procedure is legally fulfilled.

The county-clerk referred the case, followed by:

The plaintiff's representative proved stamping the request for suspension.

She shows that according to art. 133 paragraph 3 from Law no. 31/1990 the plaintiff may also request the suspension based on the presiding judge's order.

Requests the annulment of the Decision of the Ordinary General Meeting of Shareholders of Romgaz dated November 30, 2010 by which has been approved for Romgaz to make a donation within the amount of 400,000,000 lei to the Romanian State.

The respondent's representative files conclusions for the rejection of the request for suspension of annulment of the decision made by the General Ordinary Meeting of Romgaz shareholders.

The parties declare they have no further requests, the court takes note of that and concludes the evidence stage and grants permission to speak with regards to the request for annulment of the GMS decision.

The plaintiff's representative requests the annulment of the GMS decision taken within the meeting from November 30, 2010 by which has been approved to make a donation.

The plaintiff's representative presents the grounds for nullity concerning the GMS decision from November 30, 2010: infringement of principle regarding the capacity for specialized use.

She argues that a trading company has as objective to make profit; the purpose of its existence is to perform a lucrative activity which would bring profit.

The object of activity of Romgaz is established by art. 5 from the articles of association of the company consisting of carrying out the strategy for the exploitation, production and storage of natural gas, by performing, in compliance with the Romanian effective legislation, trading activities corresponding to its object of activity.

The donation from Romgaz approved by GMS from November 30, 2010 pertains to the category of liberties, the transfer of this amount to the state bears no conditions.

Infringement of the provisions of Law no. 31/1990 regarding the GMS procedure and the participation of the shareholders to benefits.

Infringement of the provisions related to summoning the GMS

The plaintiff's representative showed that the convener did not mention the value of the envisaged donation, but, nevertheless, MECMA voted in favor of making a donation of 400,000,000 lei.

According to art. 117 paragraph 6 from Law no. 31/1990, the convener shall comprise (...) the agenda, explicitly mentioning all the matters that will make the object of debate during the meeting.

According to art. 117 ind. 1 from Law no. 31/1990:

(1) „One or more shareholders, individually or together representing at least 5% of the share capital, are entitled to request the introduction of new matters on the agenda.

(2) the requests are submitted to the Board of Directors, respectively to the directorate, within

maximum 15 days as of publishing the convener, for those to be published and made known to the other shareholders (...)

(3) The agenda completed with the matters proposed by the shareholders, subsequent to the summoning, must be published in compliance with the requirements stipulated by the law and /or by the articles of association in relation to summoning the general meeting, at least 10 days prior to the general meeting, upon the date mentioned in the initial convener.”

As shareholder I was aware a donation will be discussed.

The noncompliance with the term for filing the powers of attorney

According to art.125 paragraph 3 from Law no. 31/1990 the powers of attorney shall be filed in original, 48 hours prior to the meeting or within the term stipulated by the articles of association, sanctioned with the loss of the right to vote within the respective meeting. The powers of attorney shall be kept by the company, mentioning this fact in the protocol.

The plaintiff's representative shows that the powers of attorney for the representatives of the Ministry of Economy, Commerce and Business Environment are given within an order issued on November 29, 2010 therefore on the day before the EGMS. Therefore, it is objectively impossible for these powers of attorney to have been filed with the company in compliance with the term of 48 hours stipulated by art. 125 paragraph 3 from Law no. 31/1990.

As a consequence for the noncompliance with the term of 48 hours, the state has lost the right to vote for the EGMS from November 19, 2011, therefore taking into consideration the vote of its representatives within this EGMS leads to nullity of the decision, any infringement of the voting procedure being sanctioned by absolute nullity.

The plaintiff's representative shows that art. 67 from Law no. 31/1990 has been infringed,

According to art. 67 from Law no. 31/1990, the shareholders of the trading company are entitled to equities pro rata to the participation to the share capital,

Art. 67 therefore regulates a principle essential for the functioning of the trading company arising from the legal reason envisaged by each shareholder upon the incorporation of the trading company or when acquiring the shares: participation to benefits and losses pro rata to the share capital held.

Making a donation from the company patrimony is, in any case contrary to the purpose of the company, but if this donation is actually for the benefit of the majority shareholder, then it also represents fraud in what concerns the principle established by art. 67 from Law no. 31/1990.

The plaintiff's representative sustains that the result of this donation is in actuality a nationalization of the shareholder's benefits afferent to its participation to the share capital; moreover, the nationalization is more obvious if we take into consideration the fact that the donation to the Romanian State is made from the Romgaz profit afferent to the previous years, which has not been yet distributed to the shareholders.

Actually, the result obtained by MECMA by the GMS decision from November 30, 2010 is similar to the effects of a leonine clause, which is sanctioned with relative nullity.

At the same time, such a judicial action strongly contravenes to the provisions of art. 44 from the Constitution according to which private property is guaranteed.

Infringement of art. 127 from Law no. 31/1990

Although making a donation contravenes to the purpose of the company and making it for the benefit of one of the shareholders also infringes, at the same time, the rights of the other shareholders, nevertheless, as long as all the shareholders would agree to the operation and it would not infringe the rights and the interests of other persons, a donation could be allowed.

In such cases, the shareholders practically undertake, unanimously, the negative consequences that the donation would have in what concerns the company and they wave a right in favor of another shareholder.

The guarantee that such a waiver *in favorem* would be adopted unvitiated and that it would represent the actual will of the prejudiced shareholders is assured by art. 127 from Law no. 31/1990 according to which the shareholder having interests in a certain operation that is contrary to the company must abstain from voting during the deliberations concerning the respective operation.

Therefore, the plaintiff's representative concludes: MECMA could have inserted on the agenda the request for the approval of the donation, and let the other shareholder, Fondul Proprietatea, to decide

whether it agrees or not with this operation.

The respondent's representative requests the rejection of the action for annulment of Decision no. 12/November 30, 2010 issued by GMS of S.N.G.N. ROMGAZ S.A. having as object the approval for S.N.G.N. ROMGAZ S.A. to make a donation within the amount of 400,000,000 RON, to the Romanian State, as being groundless, as shown in detail in the statement of defense filed with the court case.

He also requests the rejection of the addendum to action, having as object the suspension of Decision no. 12/November 30, 2010 issued by GMS of S.N.G.N. Romgaz S.A. as being inadmissible.

As reasons for the nullity of the GMS decision no. 12/November 30, 2010 the plaintiff invokes the infringement of the principle regarding the capacity for specialized use by the respondent company.

The provisions of art. 34 from Decree no. 31/1954 stipulate that: the legal person can only have those rights corresponding to its purpose established by the law, by the articles of incorporation or by-laws.

By corroborating art. 59 with art. 61 from G.O. no. 18/2010 it explicitly results the conclusion according to which S.N.G.N. ROMGAZ S.A. has the capacity for specialized use in relation to the donation stipulated by G.O. 18/2010 regulated by law.

Therefore, the plaintiff's affirmations concerning the infringement of principle regarding the capacity for specialized use made by the respondent must be eliminated.

It is not the case of prejudice caused by the company to its shareholders.

The plaintiff affirms without grounds that it is directly prejudiced, in case of executing the Decision no.12/November 30, 2010 of the GMS of S.N.G.N. ROMGAZ S.A. by affecting the participation to equities, and also indirectly, considering that the shares of S.N.G.N. ROMGAZ S.A. are not allowed for transaction on any capital market, so as to bring market value into discussion.

The shares of S.N.G.N. ROMGAZ S.A. are not transactional on the capital markets or in any other way, so as to be able to mention, in a realistic and serious way, a market value and, moreover, the decrease or increment of the market value, following an operation.

The respondent's representative shows that the infringement of the legal provisions related to summoning the GMS does not hold.

The Board of Directors of S.N.G.N. Romgaz S.A. summoned the General Meeting of Shareholders with the following agenda: the approval for S.N.G.N. ROMGAZ S.A. to make a donation, in compliance with the provisions of G.O. 18/August 18, 2010.

It cannot be said that this summoning does not comprise the explicit mention of all the matters that would represent the object of the meeting, as long as the provisions of G.O. 18/2010 were referring both to the state companies making donations as well as to the amounts that can be donated.

Furthermore, the respondent's representative shows that the term for filing the powers of attorney has been complied with,

In what concerns the legal nature of the 48 hours terms for filing the powers of attorney we estimate that it is non-peremptory, aspect resulting without a doubt from the fact that the parties are free to establish by their articles of association another term, either longer, or shorter.

Furthermore the infringement of the provisions of art. 67 and art. 127 from Law no. 31/1990 does not hold.

Therefore, the respondent's representative appreciates that the challenged GMS decision fulfills the legal requirements therefore requests the rejection of the action for annulment of Decision no. 12/November 30, 2010 of the GMS of S.N.G.N. Romgaz S.A. Medias.

He also requests the rejection of the addendum to action by which the plaintiff requests based on „art. 133 from Law no. 31/1990 the suspension of decision of the Ordinary General Meeting of Shareholders of Romgaz challenged as being inadmissible, motivated by advancing separate action the request for the presiding judge's order representing the object of file 5520/85/2010,

As a response the plaintiff's representative shows that by the filed statement of defense the respondent is trying to justify the establishment of the special capacity for use of the donation.

The trading company can perform the operations established within the object of activity.

There is no possibility for this capacity of use to be broadened.

The fact that a legislative instrument stipulates something does not mean the principles are misrepresented.

As a response, the respondent's representative shows that it cannot be ignored the fact that G.O. no. 18/2010 has, at this time, the power of a law and, therefore, its effects cannot be declared as being inefficient only based on the provisions of Law no. 31/1990.

As a consequence, for as long as the provisions of art. 59-60 of G.O. no. 18/2010 are effective, the only conclusion that can be noted is that they derogate from the provisions of Law no. 31/1990, regulating, at the same time, a special case where the trading companies where the state holds a majority stake have the capacity for specialized use to make, in 2010, donations to the state budget.

#### THE TRIBUNAL

Determines that by the request for petition registered at the headquarters of this court of law on December 02, 2010 the plaintiff S.C. FONDUL PROPRIETATEA S.A. has requested in opposition to the respondent SOCIETATEA NATIONALA DE GAZE NATURALE ROMGAZ S.A. the annulment of the Decision of the General Meeting of Shareholders of S.N.G.N. ROMGAZ S.A. dated November 30, 2010 by which was approved for Romgaz to make a donation within the amount of 400,000,000 lei to the Romanian State.

To motivate the request the plaintiff showed that it is registered in the Shareholders Register as owner of 14.99% of the share capital of S.N.G.N. ROMGAZ S.A., the rest of the shares being held by the Romanian State through the Ministry of Economy, Commerce and Business Environment, in what concerns the reasons for nullity of the challenged decision, the plaintiff showed that it has been infringed the principle regarding the capacity for specialized use. It has been noted that the legal person cannot assume obligations other than those corresponding to its legal purpose, any contrary instrument being under absolute nullity according to art. 34 from Decree-Law no. 31/1954. The object of activity of S.N.G.N. ROMGAZ S.A. is established by art. 5 from the articles of association and consists of carrying out the strategy for the exploitation, production and storage of natural gas, by performing, in compliance with the Romanian effective legislation, trading activities corresponding to its object of activity. The donation approved by the GMS decision from November 30, 2010 pertains to the category of liberties, the transfer of this amount to the Romanian State bears no conditions. There are strong economic arguments proving not only that the donation does not bring any benefit to the company or to the shareholders but also that it is prone to create prejudice on a long or average term. Thus, for the year 2001 it is envisaged listing S.N.G.N. ROMGAZ S.A. with Bucharest Stock Exchange and it is obvious that the price and the interest for the shares of the company will be diminished. It must be mentioned that Decision no. 10 from September 2, 2010 of the Board of Directors of S.N.G.N. ROMGAZ S.A. has determined the donation to the Romanian State would liquidate the capital of the company and would lead to decrease of the financial income. The company took a decision contrary to its best belief only because this decision has been imposed by the majority shareholder, the State. The plaintiff has also showed that by the decision made, the provisions of Law nr: 31/1990 regarding summoning the G.M.S. have been infringed. According to the provisions of art. 129 paragraph 7 from Law no. 31/1990 there cannot be taken decisions regarding the points on the agenda that have not been published in compliance with the provisions of art. 117 and art. 117 index 1 of the law, except the situation when all the shareholders have been present in person or by representation and none of them opposed to or challenged this decision. But, the agenda of G.M.S. sent by the Chairperson of the Board of Directors did not mention any proposal regarding the exact amount of the donation. The majority shareholder had the obligation, if he wanted, to proceed according to the provisions of art. 117 index 1 from Law no. 31/1990. In fact the majority shareholder did not comply with the legal provisions and proposed the amount of 40,000,000 lei during the GMS, which renders the decision made null. The plaintiff also showed that the term for filing the powers of attorney has not been complied with. In fact, the powers of attorney for the representatives of the Ministry of Economy, Commerce and Business Environment are given within an order issued on November 29, 2010 therefore on the day before the GMS which is objectively impossible for these powers of attorney to have been filed with the company in compliance with the term of 48 hours stipulated by art. 125 paragraph 3 from Law no. 31/1990. As a consequence for the noncompliance with the term, the Romanian State has lost the right to vote for the GMS any infringement of the voting procedure being sanctioned by absolute nullity. The plaintiff also showed that the decision also infringes the provisions of art. 67 from Law no. 31/1990 according to which the

shareholders of the trading company are entitled to equities pro-rata to the participation to the share capital. Making a donation from the company patrimony is in any case contrary to the purpose of the company, and if this donation is for the benefit of the majority shareholder it also represents a fraud in what concerns the principle established by art. 67 from Law no. 31/1990. The plaintiff also showed that the decision further infringed the provisions of art. 127 from Law no. 31/1990 according to which the shareholder having interests in a certain operation that is contrary to the company must abstain from voting during the deliberations concerning the respective operation, therefore the majority shareholder must have abstained from voting and the donation should have been decided by the other shareholder, respectively Fondul Proprietatea S.A.

In evidence the plaintiff filed a photocopy of the following documents: the Decision of the Board of Directors of Romgaz dated September 2, 2010-excerpt, the conveners of GMS Romgaz from November 22<sup>nd</sup> and 30, 2010, the power of attorney of Proprietatea for the GMS from November 30, 2010, communication no. 1354/October 29, 2010 sent by de Fondul Proprietatea to MECMA, communication no. 1355/October 29, 2010 sent by de Fondul Proprietatea to the Ministry of Public Finances, communication no. 98278/2010 sent by the Ministry of Public Finances to MECMA, communication no. 2389/2010 sent by MECMA to Romgaz, communication no. 118207/2010 sent by MECA to Romgaz and communication no. 1464/11.11.2010 sent by Fondul Proprietatea to the Board of Directors of Romgaz.

The request has been stamped with 39 lei worth of stamp duty and judicial stamps worth of 0.30 lei have been applied.

On December 8, 2010 the plaintiff S.C. FONDUL PROPRIETATEA S.A. filed an amendment of the introductory request requesting the court to rule that based on art. 133 from Law no. 31/1990 in favor of suspending the execution of the GMS decision of S.N.G.N. ROMGAZ S.A. dated November 30, 2010. To motivate the request for suspension the plaintiff showed that the transfer to the State for the amount of 400,000 lei produces both direct and indirect prejudice, by affecting its participation to profit and the depreciation of the market value of Romgaz shares and liquidation of the trading company's capital. The recovery of this amount of money by Romgaz, not even with the afferent legal interest if the case is permitted at first instance, considering that, the recovery is a difficult and long term process, will not be enough to cover the prejudice suffered by Romgaz and Fondul Proprietatea.

The respondent SOCIETATEA NATIONALA DE GAZE NATURALE ROMGAZ S.A. filed a statement of defense requesting:

- the rejection of the action for annulment of Decision no. 12/November 30, 2010 made by G.M.S. of S.N.G.N. ROMGAZ S.A. having as object the approval for S.N.G.N. ROMGAZ S.A. to make a donation within the amount of 400,000,000 lei to the Romanian State as being groundless,
- the rejection of the addendum to action having as object the suspension of execution of the Decision no. 12/November 30, 2010 taken by GMS OF S.N.G.N. ROMGAZ S.A. as being inadmissible.

For motivating the statement of defense the respondent showed that the claims of the plaintiff concerning the infringement of the principle regarding the specialized use in making the challenged decision must be eliminated. By corroborating art. 59 with art. 61 from G.O. no. 18/2010 it explicitly results the conclusion according to which S.N.G.N. ROMGAZ S.A. has the capacity for specialized use in relation to the donation stipulated by G.O. no. 18/2010 regulated by law. The existence of a prejudice caused to the company and to its shareholders by making the challenged decision cannot be noted. Since the donation was financed according to art. 59 from G.O. no. 18/2010 from the company's capital accumulated from the activity afferent to the previous years and not from the income afferent to financial year 2010, so as to affect financial year 2010, the expenses encountered regarding the donation have not been registered in the profit and loss account of year 2010, so as to affect the profit of S.N.G.N. ROMGAZ S.A. for the year 2010 and as a consequence the plaintiff's right to equities. The shares of S.N.G.N. ROMGAZ S.A. are not transactional on the capital markets and nor in any other way, so as to be able to mention, in a realistic and serious way, a market value or its decrease or increment following the operation involving the donation. Furthermore, the infringement of the legal provisions related to summoning the GMS from November 30, 2010 cannot be noted either. The Board of Directors of S.N.G.N. ROMGAZ S.A. has summoned the General Meeting of Shareholders with the following

agenda “the approval for S.N.G.N. ROMGAZ S.A. to make a donation, in compliance with the provisions of G.O. no. 18/2010.”

It cannot be said that this summoning did not contain all the matters that represented the object of the meeting for as long as G.O. no. 18/2010 was referring both to S.N.G.N. ROMGAZ S.A. as well as to the amounts that could be donated, respectively 400,000,000 lei. By the approval granted by the plaintiff’s representatives regarding the appointment of the chairperson and of the secretaries for the General Meeting, without objecting to not filing the powers of attorney the representatives of MECMA within the legal term, lead to the conclusion that they have accepted the situation as such. The plaintiff’s claim that the provisions of art. 67 and art. 127 from Law no. 31/1990 had been infringed cannot be noted either. For as long as the provisions of art. 59 and 60 from G.O. no. 18/2010 are effective, the only conclusion that can be noted is that they derogate from the provisions of Law no. 31/1990 regulating at the same time a special case where the trading companies where the state holds a majority stake have the capacity for specialized use to make, in 2010, donations to the state budget.

In what concerns the addendum to action having as object the suspension of execution of Decision no. 12/November 30, 2010 taken by GMS OF S.N.G.N. ROMGAZ S.A. filed under art. 133 from Law no. 31/1990 the respondent showed that, it is inadmissible due to the plaintiff filing by separate action the request for the presiding judge’s order representing the object of file no. 5520/85/2010 from Sibiu Tribunal with court term on December 16, 2010.

After examining the documents and the instruments of the file the Tribunal is noting the following:

By G.O. no. 18/2010 regarding the readjustment of the state budget for year 2010 is stipulated the right of the trading companies where the state holds a majority stake to make donations to the state budget according to art. 59 from G.O. No. 18/2010 respectively by financing the respective donations, from the company’s capital accumulated from the activity afferent to the previous years. By art. 61 paragraph 2 from G.O. no. 18/2010 it is mentioned that the provisions of art. 59 can apply within the limits of the amount of 400 million lei to Societatea Nationala de Gaze Naturale ROMGAZ S.A. The amount of money mentioned in art. 61 paragraph 2 from G.O. no. 18/2010 has been provided as income to the state budget for year 2010, the respective donation representing a solution regulated by the legislator for financing the deficit of the state budget, considering the current economic-financial crisis. By the Decision of the Board of Directors of S.N.G.N. - ROMGAZ S.A. no. 14/26.11.2010 (leafs 55-56) it has been approved the proposal to make the donation provided in art. 59 from G.O. no. 18/2010. By the Decision of the Ordinary General Meeting of Shareholders of S.N.G.N. - ROMGAZ S.A. no. 12/November 30, 2010 art. 2 (leafs 49 - 50) it has been approved the donation to the state budget in compliance with the provisions of art. 59 from G.O. no. 18/2010. The same article explicitly stipulated the solution according to which the donated amounts diminish the company’s capital and not another solution which would have had an impact on the financial results for the year 2010 and implicitly on the profit and on the equities.

The Tribunal considers that, by adopting the Decision of the GMS of S.N.G.N. - ROMGAZ S.A. no. 12/30.12.2010 the principle regarding the capacity for specialized use has been infringed. The provisions of art. 34 from Decree no. 31/1954 stipulate that, the legal person can only have those rights corresponding to its purpose established by the law, by the articles of incorporation or by-laws. G.O. no. 18/2010 granted S.N.G.N. - ROMGAZ S.A. a specialized capacity for use in relation to the donation. G.O. no. 18/2010 granted S.N.G.N. - ROMGAZ S.A. the right to donate to the state budget during 2010, amounts unused upon the date the ordinance afferent to the previous years became effective, representing the company’s financing sources constituted from the profit of previous years, from amounts resulted from the sale of assets, from the sale of shareholding held at branches as well as amounts from the share of 35% according to art. 1 from H.G. no. 168/1998 regarding the determination of the percentage of expenses necessary for the development and modernization of the production of oil and natural gas, oil refining, transportation and distribution, with further modifications.

The Tribunal considers that, by adopting the decision no prejudice has been caused to the company and of its shareholders. Since the donation was financed according to art. 59 from G.O. no. 18/2010 from the company’s capital accumulated from the activity afferent to the previous years and not from the income afferent to financial year 2010, so as to affect the financial year, the expenses encountered regarding the donation have not been registered in the profit and loss account of year 2010,



so as to affect the profit of S.N.G.N. ROMGAZ S.A. for the year 2010 and as a consequence the plaintiff's right to equities. The shares of S.N.G.N. ROMGAZ S.A. are not transactional on the capital markets and nor in any other way, so as to be able to mention a market value or its decrease or increment following the operation involving the donation. Furthermore, the infringement of the legal provisions related to summoning the GMS from November 30, 2010 cannot be noted either. The Board of Directors of S.N.G.N. ROMGAZ S.A. has summoned the General Meeting of Shareholders with the following agenda "the approval for S.N.G.N. ROMGAZ S.A. to make a donation, in compliance with the provisions of G.O. no. 18/2010 (leafs 13-14). The summoning contained explicitly all the matters that represented the object of debate during the meeting, for as long as G.O. no. 18 /2010 was referring both to S.N.G.N. ROMGAZ S.A. as well as to the amounts that could be donated, respectively 400,000,000 lei. By the approval granted by the plaintiff's representatives regarding the appointment of the chairperson and of the secretaries for the General Meeting, without objecting to not filing the powers of attorney the representatives of MECMA within the legal term, lead to the conclusion that they have accepted the situation as it was. The Tribunal does not note the plaintiff's claims affirming that the decision made is in breach of the provisions of art. 67 and art. 127 from Law no. 31/1990. The provisions of art. 59 and 61 from G.O. no. 18/2010 are effective, the only conclusion that can be noted is that they derogate from the provisions of Law no. 31/1990 regulating at the same time a special case where the trading companies where the state holds a majority stake have the capacity for specialized use to make, in 2010, donations to the state budget. Since the donation was financed according to art. 59 from G.O. no. 18/2010 from the company's capital accumulated from the activity afferent to the previous years and not from the income afferent to financial year 2010, so as to affect the financial year. The expenses encountered regarding the donation have not been registered in the profit and loss account of year 2010 „so as to affect the profit of S.N.G.N. ROMGAZ S.A. for the year 2010 and as a consequence the plaintiff's right, as shareholder, to equities. The shareholder S.N.G.N. ROMGAZ S.A. did not have the obligation to abstain from deliberation under art. 127 from Law no. 31/1990 as it cannot be claimed that he had interests opposing the agenda. The respondent S.N.G.N. ROMGAZ S.A. is a trading company with state-owned capital and by the decision taken it has been approved the donation of an amount to the state budget.

Although the plaintiff claims to have suffered prejudice in what concerns a right or a legit interest, it has failed to prove to have challenged under art. 9 from Law no. 554/2004 with the competent administrative court, the provisions of G.O. no. 18/2010 which represented the basis for making the decision.

In what concerns the addendum to action having as object the suspension of execution of the Decision no. 12/November 30, 2010 taken by GMS of S.N.G.N. ROMGAZ S.A. filed under art. 133 from Law no. 31/1990 the Tribunal determined that it is inadmissible. Although the text of art. 133 from Law no. 31/1990 reads "filing the action for annulment does not mean that the request for suspension must be formulated as a head of claim additional to the main request for annulment of the decision. On the contrary, the request for suspension of the execution must be formulated separately, as a request for a presiding judge's order in relation to the imperative referral of art. 133 from Law no. 31/1990 to this procedural remedy. The referral to the ordinance refers not only to its requirements of admissibility but also to the procedural institution as such.

On the other hand the plaintiff filed a request for suspending the execution of the decision and by separate action a request for the presiding judge's order representing the object of file no. 5520/85/2010 from Sibiu Tribunal.

ON THOSE GROUNDS,  
IN THE NAME OF THE LAW,  
THE COURT RULES

Rejects the request filed by the plaintiff S.C. FONDUL PROPRIETATEA S.A with its headquarters in Bucharest, 78-80 Buzesti St., 7<sup>th</sup> floor, district 1 and with address for service at SCA Popovici Nitu & Asociatii from Bucharest, 239 Calea Dorobanti St., 6<sup>th</sup> floor, district 1, for suspending the execution of the Decision no. 12/30.11, 2010 made by the General Meeting of Shareholders of Societatea Nationala de Gaze Naturale ROMGAZ S.A. with its headquarters in Medias, 4 P-ta C.I, Motas, county of Sibiu,

Rejects the request filed by the plaintiff S.C. FONDUL PROPRIETATEA S.A. in opposition to the respondent S.N.G.N. ROMGAZ S.A. represented by the Chairperson of the Board of Directors Apan Ioana, concerning the annulment of the Decision no. 12/November 30, 2010 made by the General Meeting of Shareholders S.N.G.N. ROMGAZ S.A.

With the right to appeal within 15 days as of the communication,

Ruled within the counsel chamber and pronounced in open session today, January 19, 2011.

Chairperson,  
Elena-Carmen Poiana  
*Illegible signature*

County-clerk,  
Silvia Husea  
*Illegible signature*

*Illegible round seal*  
*Illegible signature*

Elaborated C.E.P. 17.03.2011  
Typing S.H.18.03.2011  
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