CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: OIL & GAS 2024

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Letters to the Editors:

If you like what you read in these pages (or even if you don't), we really do want to hear from you. Please send any comments, criticisms, questions, or ideas to us at: press@ceelm.com

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BULGARIA

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1. Summary

Currently, the main piece of legislation, governing oil & gas matters in Bulgaria is the Underground Resources Act (the URA). This is a piece of legislation that is general for underground resources prospecting and exploration, exploration, and production. Resulting in certain aspects of oil & gas-related transactions and particular scenarios not covered by our jurisdiction's legislation (by way of an example: change of control in permit holder is not explicitly regulated by legislation). This gives room for the market practice to shape the reality of the prospecting and exploration of oil & gas.

Following the major changes to the URA in 2020, we have noticed in the past years updates to the secondary legislation like: Ordinance on the Setting of the Amount, Terms and Conditions for the Fees under the Underground Resources Act and draft Ordinance for Control over the Agreements, Executed under the Underground Resources Act.

The URA is a specific legislative act to the Energy Act (EA), which is the main legislative act in the Energy sector. The EA has undergone several changes since 2020 but the most significant as relates to oil & gas are the licensing of the gas traders and the development of the legislation, concerning gas trading on the gas trading hub. We believe that both acts will undergo changes in case of rapid development of the oil & gas sector and discoveries made.

What we currently see is the populating of the gas market with licensed gas traders. We also notice the growth of the market share of the Balkan Gas Hub (BGH). This is due to various reasons, the main one being the diversification of the gas supplies to Bulgaria and the region. Currently, the licensed gas traders registered as participants on the BGH are 93. Growing the number of registered participants and their needs reasoned BGH's anticipated introduction of clearing services by the midst of 2025.

Bulgartransgaz EAD, a state-owned company, is the sole entitled natural gas transmission network operator in Bulgaria.

Another company holds a license as a public supplier of natural gas – Bulgargaz EAD – which is also wholly state-owned.

There is another gas exchange stock in Bulgaria – the Bulgarian Energy Trade Platform. It is privately owned and its market share is pretty low.

2. Overview of The Country's Oil & Gas Sector

2.1. Legal Framework – A Brief Outline of Your Jurisdiction's Oil & Gas Sector

As mentioned above, it is the URA the main legislative act that regulates and governs the prospecting and exploration, development, and production of oil & gas in Bulgaria. Prospecting and exploration of oil & gas may be done only based on a tender and following permit issued by the Council of Ministers at the suggestion of the Minister of Energy to the successful bidder.

During the prospecting and exploration phase, the permit holder pays an annual fee based on the area of the block where the prospecting and exploration rights are granted. Recently, the amount of the area fee was increased, as the tariff was not updated for quite some time. In addition to the annual fee, the permit holder is obliged to hold a guarantee covering the performance of the approved overall and annual work program; and covering its environmental obligations. Rarely, the permit holder may need to pay for extracted natural resources should the quantities are not for commercial sales.

Once there is a concession granted for the production stage, the company pays the concession payment based on the production and again shall maintain the respective guarantees, covering its production permit and environmental liability.

The import and export of oil & gas are regulated by general legislation, including the URA and the Energy Act. As mentioned above, a license is needed for trading with natural gas, including import and export if they are regarded as trading of natural gas.

There is only one license for a public gas supplier which is held by the 100 % state-owned company Bulgargaz EAD.

The other state-owned company is Bulgartransgaz EAD which is a combined operator performing licensed activities of natural gas transmission and storage. The company is an owner and operator of gas transmission infrastructure for

natural gas transmission to natural gas distribution companies and industrial consumers on the territory of Bulgaria and to the neighboring countries Romania, Turkey, Greece, North Macedonia, and Serbia. Recently, Bulgartransgaz EAD announced public procurement procedures for the expansion of the transmission capacities from Greece to Bulgaria and from Bulgaria to Romania. The modernized infrastructure will ensure additional capacity from Bulgaria to Romania in the amount of 137.2 gigawatt-hour per day, and the total technical capacity will reach 295 gigawatts-hour per day.

Currently, there are three TSOs registered: Bulgartransgaz EAD, ICGB AD, and NOMAGAS JSC Skopje.

There is only one underground gas storage in Chiren (Chiren UGS) with a major function – natural gas storage for covering the seasonal fluctuations in consumption and delivery of natural gas. It is currently being enlarged by drilling additional wells and building a connection pipeline to the gas transmission system and Balkan Gas Stream.

In the past couple of years, we have seen significant changes in the gas market and sources of gas supply but we believe that it is still to develop and extend due to the market demand, the extension of the gas transmission system, and the entry of new market players.

Bulgaria is still very much dependent on imported gas. The mix of imported gas is getting more and more variable. Domestic production has been in decline in the past years.

Prospecting and exploration works in the biggest offshore prospecting and exploration area continue and the state is considering joining the project.

2.2. Domestic Oil & Gas Production and Imports/Exports

At present, Bulgaria has proven insignificant quantities of natural gas and oil reserves. 17 concessions have been granted from the group of mineral resources – oil and natural gas, most of which are in onshore territories, and limited quantities of oil and condensate are extracted.

For the first quarter of 2024 there is no export of domestic gas, the domestic production is equal to 1 million cubic meters, while the import is 1,024 million cubic meters.

So far, no significant natural gas deposits have been discovered on the territory of the Republic of Bulgaria. The actions that have been taken are to prospect and explore new natural gas fields, both onshore and offshore in the Bulgarian Black Sea. Currently, such works are being carried out in the area of Han Asparuh Block, where the tender for Han Tervel Block is now live. The main parameters of the tender are:

- The area's size: 4,032 square km
- The bid participation deposit amount: BGN 15,000 or approximately EUR 7,500
- The specification that the bidder must prove a generated total net income of EUR 150 million in sales for the last three financial years
- Each bid will also be evaluated based on the proposed work program and funds allocated for environmental protection
- The minimum mandatory work program must include the following: acquisition of new 3D seismic surveys, the preparation of a geological model to delineate prospective drilling targets, an assessment of oil & gas potential, and the optional drilling of an exploration well

Chiren storage facility is a significant part of the national gas system. So far it is the only gas storage facility in the country and as mentioned above its extension was needed and currently undergoing.

Currently, Bulgaria does not have a LNG terminal. It is using neighboring countries' LNG terminals to re-gasify LNG supplies. Bulgargaz EAD entered into an agreement with Botas at the beginning of this year to secure re-gasification capacities.

The gas supplies to Bulgaria are done mainly by pipelines where the source of the gas is also LNG.

2.3. Foreign Investment and Participation

Bulgarian legislation does not provide restrictions on foreign stakeholders in general to enter the domestic market.

Bulgaria passed legislation at the beginning of 2024 introducing a screening mechanism for foreign direct investments (FDI) in the country. The new mechanism introduced in the Bulgarian Investment Promotion Act provides for the criteria for screening of FDIs in Bulgaria and establishes the following monetary thresholds upon which the investment would be subject to scrutiny, namely:

- at least 10% of the capital of a company operating in Bulgaria is acquired, or the investment's value exceeds EUR 2 million in value;
- at least 10% of the capital of a company operating in the country and carrying out high-tech activities is acquired; or
- a new investment that exceeds EUR 2 million.

Certain jurisdictions are designated as low risk (e.g., US, UK, Canada, Australia, New Zealand, Japan, South Korea, the United Arab Emirates, and Saudi Arabia), this underscores Bulgaria's strategic alignment with international standards while streamlining regulatory processes for investors from trusted regions. Investments in critical sectors such as energy production and those originating from specific countries, irrespective of monetary thresholds, are subject to heightened scrutiny.

The URA imposes certain requirements for companies to meet to be granted a permit for exploration and production such as: the company needs to be registered under the Bulgarian Commerce Act or a similar act of another country; the company may not be registered under the legislation of a country with preferential tax treatment; the company needs to meet the financial, technical and management requirements to qualify for bidding round, etc.

It is interesting to note that past year Bulgarian government was contemplating the acquisition of share interest in the permit for prospecting and exploration of the Han Asparuh block. The intention was to acquire up to 20% of the share interest in the permit. The government assigned the Minister of Energy to monitor the process, where the activities were on the side of the Bulgarian Energy Holding.

It is good to mention that in the past years, all of the prospecting and exploration works offshore Bulgaria were and are being done by international major players like Total, OMV, Shell, Repsol, Woodside, etc.

2.4. Protection Of Investment

Bulgaria is a member of the Energy Charter Treaty. However, it should be considered that at the end of May 2024, the EU announced its withdrawal from the Energy Charter Treaty, which will officially take place on April 27, 2025. It is also expected that EU Member States will withdraw separately (as some of them already did, e.g., Spain, France, Italy, Germany, etc.) and terminate their "sunset clauses," the latter providing for 20 years post-withdrawal protection under the ECT, which will most likely be removed. Bulgaria has not demonstrated such an intention yet, but it is most likely to follow the other member states. The country also takes all necessary steps in time due manner to implement relevant to the energy sector EU directives. Bulgaria has been represented in court and arbitration cases, derived from the energy sector legislation in the past, and by no means makes an exception in comparison with other member states of the European Union when it comes to bearing its liability before domestic and foreign investors.

It is very important to mention that the URA does incorporate a stability clause, meaning that investment is given stability when the transaction is entered. The clause provides that:

In case of changes to the Bulgarian legislation which limit the rights or cause material damages to the permit holder, on the request of the permit holder, the terms and conditions of the executed contract shall be amended to restore its rights and interests corresponding to the initially concluded contract.

3. Exploration of Oil & Gas

3.1. Granting of Oil & Gas Exploration Rights

In Bulgaria, the prospecting and exploration, exploration, and production of underground resources are regulated activities, done on the basis of a permit, issued by the competent authorities following a competitive bid or tender or granted by right. This is set up by the URA and the secondary legislation issued thereto.

Oil & gas permits for prospecting and exploration may be granted following a competitive procedure or on the initiation of an interested party which is used as a trigger for a competitive procedure. The applicants need to meet the criteria on place of establishment, no criminal convictions, no violations of tax and social security legislation, no termination of concession agreement due to permit holder's default, as well as to evidence their technical, management/professional and financial capabilities to manage the project.

The permits for prospecting and exploration of natural resources like oil & gas are granted on the consent of the Council of Ministers on the basis of a recommendation of the Minister of Energy, following the competitive procedure results. This means that the Ministry of Energy is leading the whole procedure (the competitive one) and then running the coordination with other ministries prior to having the permit approved by the Council of Ministers. In practice, this is a rather very formalistic and thorough procedure that consumes at least four months to complete.

When the bidding round is started by the initiation of the Council of Ministers on the suggestion of the Minister of Energy the public call is promulgated in the Bulgarian State Gazette and the EU official journal (as regards oil & gas) and all interested parties are given the main terms and conditions under which the permit shall be awarded.

The invitation includes the area it will be bidding for, its coordinates, the area use fee payable, any requirements for having to drill a prospecting well, any specifics of the area, information where interested parties will be given access to available information on the study of the concerned area, etc.

A permit is an administrative act. Its issuance is promulgated in the State Gazette and it is subject to appeal within 14 days following the publication by any party that has legal standing to do so. The permit does not enter into force, and the exploration contract cannot be signed before the expiry of the appeal period or before the completion of the appeal procedure. The grantor may decide to allow preliminary implementation of the permit, in which case the agreement can be signed before the expiry of the period for appeals.

Further, when a commercial discovery is made, it has to be reported to the Ministry of Energy so the latter can conclude a separate agreement for the concession of the area where the deposit is located. Despite the lack of significant discoveries on the territory of the Republic of Bulgaria, the government still shows support for the activities of exploration and prospecting both on and offshore Bulgaria.

3.2. Foreign Exploration

Under Bulgarian legislation, underground resources are the exclusive property of the state. Their prospecting and exploration may be done through a permit for prospecting and exploration issued following the procedure detailed in Section 3.1. The only formal limitation to a permit holder is that it may not be a company incorporated under the legislation of a country with preferential tax treatment or its associated companies be registered in jurisdictions with preferential tax treatment and may not be in insolvency or a liquidation procedure. The other requirements a permit holder needs to meet are set out in art. 23 and art 23a of the URA.

Once granted the permit for prospecting and exploration of natural resources, the permit holder may transfer it to another company following the provisions of the URA with the consent of the issuing authority, in the case of oil & gas prospecting and exploration, this is the Council of Ministers.

The new permit holder must meet the same requirements and criteria the permit holder did upon granting the permit for prospecting and exploration.

3.3. Stages of the Exploration Process

As part of the tender procedure and one of the selection criteria, the applicant provides its overall work plan. The overall work plan contains the minimum amount, type, and scope of work. Once the applicant is the winning bidder and respectively becomes the permit holder, the overall work plan becomes an inseparable part of the prospecting and exploration agreement. The overall work plan covers the whole period of the permit and its implementation is spread through the years of the duration of the permit in the annual work plans. Works may be added to the work plan but may not be taken out.

The permit holder guarantees the performance of the works out of the overall work plan by a bank guarantee or a cash deposit, together with the guarantee for compliance with the environmental requirements.

The term of prospecting and exploration of oil and natural gas in offshore areas may be extended following the requirements of the URA up to three times two years each, and one year for appraisal.

3.4. Obligatory State Participation

Under the URA the state does not get ownership or interest in the permit. Last year the Bulgarian government set a precedent by making a decision to assess the possibilities for acquiring up to 20 % of the permit for prospecting and exploration of oil and natural gas in the Han Asparuh area, offshore Black Sea. Up to date, there is no decision for the actual joining of the permit and the terms and conditions under which the state is joining the permit.

What the state gets out of a permit for prospecting and exploration of oil and natural gas is payment of the area fee, and payment of potential extracted volumes of oil/natural gas, exceeding the ones needed for appraisal. The data collected is co-owned by the state and the permit holder following the requirements of the URA and sub-legislative legislation for the duration of the permit. Once the permit expires, the date becomes exclusive ownership of the state.

Once the permit for prospecting and exploration is over, the state becomes the exclusive owner of all the data and information collected during the prospecting and exploration phase.

What the state most benefits from during the prospecting and exploration of underground resources like oil & gas is having been paid the area fee and collecting updated data from the study of the area.

3.5. Risks To Be Considered

As Bulgarian legislation is compliant with EU legislation and the Bulgarian government is open to foreign investment and collaboration – the main risk we may identify is the short terms for doing prospecting and exploration works on and offshore Bulgaria as regards oil and natural gas. This was tackled by the recent amendments and supplements in the URA giving additional periods for doing such works and there are prospects for further improvement of the legislation in this regard.

Further, our legislation incorporates the stability provision. Even though the stability provision is rather too general and has not been tried and tested in court, it is an option for investors to enforce it in case of need.

4. Production of Oil & Gas

4.1. Granting Of Oil & Gas Production Rights

The holder of a permit for prospecting and exploration, who has announced a commercial discovery and has been issued a certificate for commercial discovery, is entitled to receive by right concession within the terms and deadlines set by the URA.

Concession rights may be granted also following a tender procedure for a specific area and type of underground resource.

The Council of Ministers grants production concession based on a request of the Minister of Energy once the Ministry of Energy has verified the presence of all preconditions for issuance of the concession. There is no limitation on the number of concessions that one individual or company may have. The decision to grant a concession is an administrative act. Similar to the permit for prospecting and exploration, it's subject to publication, appeal, and entry into force, and might be subject to preliminary implementation. The concession rights are granted for a particular territory, which shall include the territory of the discovery and territories, necessary for the performance of the concession activities. Similarly, to the prospecting and exploration permit, the concession rights are granted following the provisions of the URA. The supervision of concession activities is with the Ministry of Energy which reports to the Council of Ministers in case of need. Secondary legislation is being now considered, empowering the Ministry of Energy's administration to supervise the concession activities.

4.2. Foreign Production

Production under concession agreements by foreign entities is not subject to special regulation by the URA. The procedure for granting production rights under a concession follows the same general rules as stipulated in Section 4.1. The requirements for a foreign company to hold a concession are similar to the one, applying to an applicant for prospecting and exploration of oil and natural gas. Therefore, similar restrictions exist like the one for granting a permit for prospecting and exploration to a foreign company. For more, details please see Section 3.2. Moreover, the concession rights come only after the successful prospecting and exploration of a given area. Our experience shows that the Bulgarian government does not differentiate between local and foreign investors and it is willing to cooperate with either of them in order to succeed in ensuring its oil & gas independence.

4.3. Stages of the Production Process

The concession agreements for the production of oil and natural gas are with a maximum term of 35 years which may be extended in specific cases if the preconditions are met. The concession agreement sets forth all the terms and conditions of the works, applicable procedures, responsibilities, and obligations between the parties, guarantees for the performance of the work as well as for the observance of the environmental legislation. Where the concession agreement is silent the URA shall apply.

The concession agreement mainly includes the parties, subject of concession, coordinates, and area of the concession rights, terms and when it starts to run, rights and obligations of the parties, adjacent area to the concession rights, financial terms and conditions, concession payments, security for the performance of the obligations, possibility for the transfer of rights and obligations, terms and conditions for the termination of the concession agreement, terms and conditions for the works performance, environmental responsibilities, dispute resolution clauses, etc.

4.4. Obligatory State Participation

There is no regulation currently in force in Bulgaria, stipulating obligatory state participation nor does the state actively seek participation in the process. The only precedent we have seen so far is mentioned herein above.

The state's main interest in the concession is receiving the concession payment.

The concessionaire pays a concession payment, the amount of which shall be determined considering the type, group, and value of underground resources, as well as the specific terms of extraction and primary processing. The amount, terms, and conditions for the concession payment shall be determined by the concession contract based on the sub-legislative acts. A portion of the concession payment amounting to 50% shall be transferred to the budgets of the municipalities, where the areas are located.

4.5. Risks To Be Considered

At this point, we believe that the applicable legislation is quite balanced, and industry is favored to stimulate investors in the market. We may not identify high risks related to the production of oil & gas in Bulgaria.

5. Termination of Production of Oil & Gas

5.1. Abandonment and Decommissioning

The rights acquired on the grounds of concession for production shall be terminated upon termination of the relevant contract with the expiration of the concession term.

- The contract may be terminated upon the occurrence of any of the below:
- expiry of the initial term of the concession and acceptance by the competent authorities of the activities for liquidation of the extraction site and/or reclaiming of the affected land and forests;
- in the event of objective impossibility to pursue the activities under the granted concession;
- in cases where a decision for declaring bankruptcy of the permit holder or the concessionaire has come into force; by mutual agreement;
- by virtue of the ruling of a court of justice or a court of arbitration;
- in cases where within three years from entry into force of the concession agreement no extraction of

subsurface resources has started for reasons attributable to the concessionaire; or

- for other reasons provided for in the agreement.

The Minister of Energy is entitled to suspend the validity of the concession if the concessionaire pursues activities that conflict with the legislation in force or violate the provisions of the concluded agreement.

Shall the concessionaire not be able to decommission the infrastructure then the state enters into such obligation. The funds for the works to be done come out of the guarantee provided upon commencing the works. If there are not enough funds to cover the expense, the state has a claim against the concessionaire.

The plans for the abandonment and decommissioning of the oil & gas facilities represent an inseparable part of the overall and annual work plans for the prospecting and exploration, production, and initial processing of the underground resources. They are approved and coordinated at once. The bodies involved in the approval and coordination process are the Ministry of Energy, the Ministry of Environment and Waters, and their local administrative bodies.

The procedure is led by the permit holder/the concessionaire.

5.2. Environmental and HSE Consideration

The URA, the Environmental Act, the Biological Diversity Act, and secondary legislation set the environmental obligations to the permit holders and concessionaire for prospecting and exploration, exploration, and production of oil & gas. As regards environmental obligation and compliance of permit holders and concessionaires with the legislative requirements, including the compliance of the plan and programs, it is the Ministry of Environment and Waters and its Regional Departments that approve them and/or run the respective procedures.

HSE considerations are being aligned with the Bulgarian Labour Code and any specific requirements that may be applicable for this type of work specifically. HSE considerations are particularly of interest in the case of drilling prospecting and exploration wells or setting up and operating production facilities.

6. Safety of Oil & Gas Exploration and Production

6.1. International Treaties to Which the Jurisdiction Is a Party

The main international treaty, that the Republic of Bulgaria is a party to, is the Energy Charter Treaty. The treaty provides for a global legal framework in investment, trade, transit, dispute resolution, national sovereignty, energy efficiency, etc. in the field of energy including the oil & gas sector.

6.2. Offshore Safety Directive

The Offshore Safety Directive was transposed and its provisions are embedded in the URA and within Ordinance on the Requirements for Prevention of Accidents in Prospecting and Exploration or Exploration or Extraction of Mineral Resources - Oil and Natural Gas in the Territorial Sea, the Continental Shelf and in the Exclusive Economic Zone of the Republic of Bulgaria in the Black Sea.

7. Import, Export, and Sales of Oil & Gas

7.1. Import and Export of Oil & Gas

The Energy Act does not provide any specific regime for the origin of gas to be transmitted and sold on the wholesale market.

Extraction companies, natural gas traders, end suppliers of natural gas, gas transmission network operators, natural gas storage facilities operators, liquefied natural gas facilities operators, customers connected to the gas transmission network, market makers, and liquidity providers shall conclude natural gas transactions at freely negotiated prices.

The import and export of natural gas in Bulgaria through the gas transmission system will trigger specific customs formalities, both at entry points and upon exit of the country. Although the import of natural gas through a fixed transmission system is exempt from import VAT it still triggers some import customs formalities. Similar customs formalities will occur on export transactions performed from the territory of Bulgaria. In export transactions (i.e., sale of natural gas to a third country) the exporter, i.e., the seller shall have to perform customs formalities upon exit from the territory of Bulgaria.

Production companies and natural gas customers inside and outside Bulgaria may construct direct gas pipelines between each other and may conclude contracts for the delivery of natural gas through the said gas pipelines.

As the import and export of oil & gas is done, using the gas pipeline network of Bulgartransgaz EAD (BTG), the party willing to transport the oil and natural gas through the network shall enter into the respective Access and Transmission agreement with BTG, as well as into a Balancing agreement.

Booking of capacity is done by the client on the respective platform.

The catalog of the entry/exit points, their names, and codes within the TSO's network may be found on the website of BTG.

7.2. Transportation

The transportation of natural gas and gas network operation is done by the Bulgarian transportation system operator, BTG.

BTG as the gas transmission network operator shall ensure, among others:

1. integrated management of the natural gas transmission network with a view to its reliable, safe, and efficient operation;
2. transmission of natural gas through the natural gas transmission network and metering of the said gas;
3. maintenance of the facilities and installations of the natural gas transmission network in accordance with technical requirements and safe operation requirements;
4. expansion of the gas transmission network in accordance with long-term forecasts and plans for the development of gas supply and outside the framework of such plans, where economically justified;
5. maintenance and expansion of the auxiliary networks;
6. provision and control of third-party access on a non-discriminatory basis between network users or groups of network users in compliance with the quality requirements, and provision to network users of information that they need for efficient access to the network;
7. the coordinated development and operating compatibility of the gas transmission network with interconnected gas transport systems;
8. operators of other gas transport systems, operators of natural gas storage facilities and/or operators of liquefied natural gas facilities, and/or operators of gas distribution networks have sufficient information to ensure that transportation and storage are done in a manner consistent with the secure and efficient operation of interconnected networks and facilities;
9. sufficient cross-border capacity with a view to integration of the European gas transmission infrastructure while meeting all economically reasonable and technically feasible requests for capacity and with a view to meeting the requirements for the security of gas deliveries;
10. inclusion of gas from renewable sources into the gas transmission network, where this is technically feasible and secure.

The operation of gas transmission networks is done in accordance with the rules of management of gas transmission networks adopted by the Bulgarian Energy Regulator based on a proposal of BTG.

The procedure for access to the gas transmission system is initiated by the filing of an application with the TSO in a template form. The form may be filled in Bulgarian or English language. It is accompanied by original documents certifying the lack of obstacles to joining the network (that the company is not insolvent, in insolvency and/or liquidation procedure) and a good standing certificate of the company.

The draft Access and Transmission contract and the GTC applicable to it are available on the website of BTG.

The gas transmission in the territory of Bulgaria may be done based on an entry-exit tariff model.

If there is a need for access to the gas transportation pipeline system, the secondary legislation shall apply, namely the Ordinance for the gas transportation and gas distribution systems. The application for joining the gas transportation and

gas distribution systems is thoroughly examined and decided on by authorities. Should there be a need and benefit to joining the systems, a contract is entered into based on the approved documents and the available town planning documents. The facilities to be joining the gas transmission and gas distribution system shall comply with the requirements set in the Energy Act and the related legislation.

7.3. Land Rights

The obligation for the construction of the infrastructure for gas transportation/gas distribution is split between the party willing to be connected and the system operator. The connectivity point is the borderline of the parties' obligations.

The company may be granted rights to construct and hold such servicing facility based on the provisions of the URA and the EA unless it owns the land where the facility will be passing.

Usually, such rights are in-rem rights like superficies or servitudes. Should the company fail to reach an agreement with the landowner for having the infrastructure go through his lands, assistance may be sought by competent authorities.

The construction of direct pipelines is ensured by the production companies and the gas infrastructure facility operators. The construction may be done only based on an executed contract for joining the gas transmission/gas distribution network.

7.4. Access and Integration

In the context of European goals for building an interconnected and single pan-European gas market, Bulgaria's policy and legislation for gas infrastructure development are directly linked to the country's position as one of the main gas distribution centers in Southeast and Central Europe. Key to market integration by 2030 is the interconnections with the Republic of Greece and the Republic of Serbia, the participation in the liquefied natural gas terminal near Alexandroupolis, Greece, as well as the expansion of the gas transmission infrastructure on the territory of Bulgaria from the Bulgarian-Turkish to the Bulgarian-Serbian border. To implement this policy, a number of projects of common interest to the European Union are being implemented under Regulation (EU) No. 347/2013 on guidelines for trans-European energy infrastructure, as well as projects of common interest to the energy community and priority gas projects under the gas interconnection in Central and South-Eastern Europe.

Currently, BTG has assigned two projects on the territory of the country for the construction of the vertical gas corridor between Greece and Bulgaria and Bulgaria and Romania. It is expected when ready, these two projects to increase the capacity of the gas transmitted from and to the two neighboring countries.

7.5. Gas Transmission and Distribution

The activities of "transmission of natural gas" and "storage of natural gas" are carried out by BTG. The transmission of natural gas is carried out on the national gas transmission network and the gas transmission network for transit transmission. As mentioned above, BTG is the holder of licenses for the activity "transmission of natural gas," as well as a license for the activity "natural gas storage." BTG is an operator of the National Gas Transmission Network for transmission of natural gas on the territory of Bulgaria to gas distribution networks and non-domestic customers of natural gas; gas transmission network for transit of natural gas through the territory of Bulgaria to the neighboring countries Romania, Turkey, Greece, and North Macedonia and the underground gas storage Chiren for storage of natural gas for primary purposes to cover seasonal inequalities in consumption and ensure the security of natural gas supply.

The individual access and transmission contracts are signed annually between the user and BTG.

The access and transmission fees are available on the internet site of the Bulgarian TSO.

8. Trading

8.1. Trading License

Natural gas transactions are regulated by the provisions of the EA (article 173 to article 184) and the Natural Gas Trading Rules. The transactions could be based on written agreements

and/or organized gas exchange markets.

The categories of transactions with natural gas are (i) delivery; (ii) transmission through the natural gas transmission and the natural gas distribution system; (iii) gas storage; (iv) transactions for the balancing of the market; and (v) transactions on spot or VTP of the gas delivery systems.

Parties to the transactions with natural gas in Bulgaria are (i) BTG (TSO); (ii) production companies; (iii) gas storage facilities operators (currently only BTG); (iv) LNG facilities operators; (v) the gas system operators; (vi) combined operator; (vii) gas distribution system operators; (viii) gas traders; clients and parties, forming the market; (ix) end supplier of natural gas; and (x) liquidity suppliers.

According to the adopted amendments to the Energy Act, as of October 1, 2021, the activity of "trading with natural gas" may be carried out based on a license issued by the Energy and Water Regulation Commission. The latter also issued the Rules on Trading with Natural Gas. The licensing procedure requires the candidates to provide extensive information and proof of their technical and financial ability to exercise the above-mentioned activity.

Domestic legislation stands out with cheap and time-efficient license procedures, which result in a high (for the country's scale) number of licenses for both foreign and domestic stakeholders. Also, an advantage is the option to file for a license online.

8.2. Products

Transactions in natural gas shall be effected on the basis of written contracts and/or on an organized natural gas exchange market in compliance with the provisions of the Energy Act and the natural gas trading rules adopted by the Energy and Water Regulatory Commission. The rules shall be published by the energy companies and the commission on their websites.

Natural gas transactions on an organized natural gas exchange market shall also be effected in compliance with the rules of operation of an organized natural gas exchange market, as adopted by the commission.

The rules shall be published by the operator of the regulated natural gas exchange market on its website.

Transactions in natural gas shall be delivery, transmission through a gas transmission network, gas distribution networks, closed gas distribution networks, and storage of natural gas, as well as transactions of transfer of ownership over the natural gas for the purposes of balancing and trade at a physical point or virtual point of trade of the gas transmission networks.

The transactions in short-term standardized products and products with terms of delivery less than or equal to one year shall be concluded on an organized exchange market of natural gas. Extraction companies shall offer not less than 15% of the natural gas extracted by them in the country on the regulated exchange market of natural gas. After January 1, 2025, transactions whose subject is different from short-term standardized products, may be done outside the regulated natural gas exchange market.

9. Competition

9.1. Authorities

The Commission for Protection of Competition (CPC) is responsible for overseeing the fair and compliant competition environment. The CPC has the authority to trigger an investigation for competition breaches at its own will. Moreover, the CPC has full authority over the competition field and its decision can be only appealed before the Supreme Administrative Court.

A competition-related investigation can be also triggered by a third party, again before the CPC.

9.2. Anti-Competitive Actions

As the Bulgarian oil & gas prospecting and exploration, exploration, and production market is undeveloped, no anti-competition actions have been initiated, so far.

The CPC has the authority to resolve mergers and acquisitions above certain financial thresholds. As the financial thresholds, regulating whether a transaction will undergo a merger clearance before CPC, are in practice negligible for the energy sector, basically all envisioned deals should undergo

such examination. The outcome is either giving clearance or prohibiting the said transaction. The Bulgarian domestic legislation provides for an obligation for the involved parties to provide information that is considered more extensive than in other European jurisdictions. The process usually takes two months for the CPC to resolve but can be prolonged based on the complexity of the case.

10. Stability Clause and Dispute Resolution

10.1. Stability Clause

Our legislation does contain a stability clause:

Article 63: In the event of changes in the Bulgarian legislation that may restrict the rights or may cause material damage to the permit holder for prospecting and exploration or exploration or to the concessionaire, upon request thereby the terms and conditions of the concluded contract shall be amended to restore his rights and interests in conformity with the initially concluded agreement.

One of the specifics of the URA that the prospecting and exploration, exploration, and production phases are covered in different agreements, reflects the impossibility of the investors to have the whole project covered by the stability clause. Therefore, each of the agreements for prospecting and exploration, exploration and respectively production are covered by separate stability clauses. This may result in a gap between the initial date the stability provisions apply for the respective phase.

According to the URA, the permit holder/concessionaire, mentioned in Sections 3.1. and 3.2., is entitled to request amendments to the respective agreement, if the law changes in a way that limits the rights or causes damages to the permit holder/concessionaire in contrast to the moment when the agreement was entered.

The current wording of the stability provision is rather general and, so far, it has not been tried and tested in court. There have been several motions for the update of this provision of the URA, so far all of them unsuccessful.

10.2. Compulsory Dispute Resolution Procedure

Under the URA the parties to an agreement for prospecting and exploration/ production license may choose between having a dispute resolved by the competent Bulgarian court or arbitration. The arbitration may be Bulgarian or international. In any case, the contract shall choose the forum as well as the language and procedure a dispute will be reviewed.

URA also allows for certain matters to be regarded by an expert. This shall be explicitly set in the prospecting and exploration agreement and/or the concession agreement.

10.3. International Treaty Protection

Bulgaria is a party to both the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID). So far there has not been a major dispute involving Bulgaria and foreign companies on prospecting and exploration/production of oil & gas. ■

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CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: OIL & GAS 2024

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1. Summary

The oil & gas regulatory landscape in Croatia has seen several significant trends and developments. Croatia, like many countries, has been navigating the balance between exploiting its natural resources for economic gain while ensuring environmental protection and sustainability.

One notable trend has been the continued exploration and exploitation of hydrocarbon resources, particularly in the Adriatic Sea. Croatia has been actively seeking foreign investors and partnerships to utilize its offshore and onshore oil & gas reserves. However, these activities have been met with challenges, including environmental concerns and opposition from local communities and environmental groups. As a result, there has been a focus on implementing and enforcing regulations aimed at mitigating environmental risks and ensuring compliance with international standards.

In terms of legislation, Croatia has been working to modernize its regulatory framework governing the oil & gas sector. This includes amendments to laws and regulations related to exploration, production, and environmental protection.

One recent legislative trend has been the promotion of renewable energy sources and the transition toward a more sustainable energy mix. Croatia has set ambitious targets for increasing the share of renewable energy in its overall energy consumption, which has led to the adoption of new laws and incentives to support renewable energy development. This shift toward renewables has implications for the oil & gas sector, as it may impact investment decisions and the long-term viability of fossil fuel projects.

In terms of new cases and investors, Croatia has seen continued interest from international oil & gas companies looking to invest in exploration and production activities. With INA and the Hungarian company Aspect, Vermilion Zagreb Exploration d.o.o. (a local unit of the Canada-based energy group Vermilion) is the largest concessionaire in oil & gas exploration in Croatia according to the results of the government tender from 2016, which offered six fields in the mainland part of the country. Apart from the SA-07 field, Vermilion obtained a concession for exploration in the SA-10 field in the Vukovar-Srijem County, in the municipalities of Berak and Ceric.

Overall, the oil & gas regulation landscape in Croatia is characterized by a balance between promoting investment and economic development while ensuring environmental protection and sustainability. Legislative efforts are focused on modernizing the regulatory framework, promoting renewable energy, and enhancing transparency and accountability. However, challenges remain in effectively managing the environmental and social impacts of oil & gas activities and balancing competing interests and priorities.

2. Overview of The Country's Oil & Gas Sector

2.1. Legal Framework – A Brief Outline of Your Jurisdiction's Oil & Gas Sector

Oil & gas exploration in the Republic of Croatia implies a rigorous bureaucratic procedure in which the Croatian Hydrocarbon Agency, the Government, and the Ministry of Economy and Sustainable Development (Ministry) are the main actors. The legislation regulating the oil & gas sector regarding exploration and reserves strongly favors the Republic of Croatia i.e., the government directly or indirectly, mostly through the national oil company.

The Ordinance on Reserves (Official Gazette Nos. 95/2018, 87/2022; Cro. Pravilnik o rezervama), provides a methodology for the categorization and classification of hydrocarbon reserves, distinguishing between proven reserves (P1), unproven reserves that may be probable (P2), and possible reserves (P3).

The legal framework seeks to ensure the supply of citizens with hydrocarbons (e.g., the right of pre-emption for the Republic of Croatia for hydrocarbons acquired by the investor under the hydrocarbon exploration and exploitation agreement). The investor can freely export oil & gas, however with a limitation that if the hydrocarbons owned by the Republic of Croatia are not sufficient to meet the market demand of the Republic of Croatia, the investor is obligated to sell its quantities, which are not bound by existing contracts/agreements, entered into by the investor, for the purpose of selling hydrocarbons, for the needs of consumption of

the Republic of Croatia to a legal entity designated by the Government. In addition, in the event of a crisis, certain extraordinary measures, such as restrictions on imports and exports may be imposed pursuant to the Energy Act (Official Gazette Nos. 120/2012, 14/2014, 95/2015, 102/2015, 68/2018; Cro. Zakon o energiji) and the Act on the Market for Petroleum and Petroleum Products (Official Gazette Nos. 19/2014, 73/2017, 96/2019; Cro. Zakon o trzistu nafte i naftnih derivate). Over and above that, pursuant to the Rulebook on Data which energy subjects are obliged to deliver to the Ministry (Official Gazette Nos. 132/2014, 16/2015, 127/2019; Cro. Pravilnik o podacima koje se energetski subjekti duzni dostavljati Ministarstvu) producers, importers, and traders of oil and oil products have an obligation to report the ministry on certain statistical data, etc.

Following the transposition of the EU Offshore Safety Directive (Directive 2013/30/EU) into national law, the new Croatian Act on Safety of Offshore Exploration and Production of Hydrocarbons (Official Gazette Nos. 78/15, 50/2020; Cro. Zakon o sigurnosti pri odobalnom istrazivanju i eksploataciji ugljikovodika) entered into force on July 25, 2015, and became fully applicable as of July 19, 2018. The new offshore legal regime establishes a minimum set of rules for preventing major accidents in offshore oil & gas operations and limiting the consequences of such accidents. Following the adoption of the Act on Safety of Offshore Exploration and Production of Hydrocarbons, further implementing regulations and guidelines were made available on the website of the coordination body/the Croatian Hydrocarbon Agency.

The opening of the LNG terminal on the Island of Krk signifies a major shift toward liquefied natural gas (LNG) as a key component of Croatia's energy strategy. This move is aimed at diversifying energy sources and reducing dependence on pipeline gas, particularly from Russia. There is an increasing focus on sustainability and energy transition policies, aligned with EU directives. Croatia has been integrating more renewable energy sources into its energy mix, which impacts the dynamics in the oil & gas sector by reducing long-term dependence on hydrocarbons. Croatia has shown efforts to improve the regulatory framework for exploration and production activities, aimed at attracting more foreign investment into the sector. However, environmental regulations and public opposition to some projects, particularly onshore exploration, continue to pose challenges. There is continued interest in both offshore and onshore exploration. Domestic production remains limited but is supported by the government to enhance energy security.

Due to fluctuations in energy prices and broader economic conditions within the EU, the government has intervened to mitigate the impact on consumers by implementing price controls on diesel and petroleum. These measures included freezing fuel prices on several occasions to stabilize the market and shield consumers from sudden increases in costs. This action was part of a broader strategy to manage inflationary pressures and maintain economic stability during periods of volatility in the global oil markets. Croatia has been actively involved in regional energy cooperation initiatives to strengthen its position as an energy transit country. This includes improving connections and infrastructure that facilitate the movement and integration of oil & gas markets in Central and Southeast Europe. These trends reflect Croatia's ongoing adaptation to both regional and global energy market changes, emphasizing diversification, sustainability, and enhanced regulatory measures to attract investments while managing environmental impacts.

2.2. Domestic Oil & Gas Production and Imports/Exports

Croatia's domestic oil production is relatively limited. In terms of gas, Croatia does produce domestically, but the amount is not sufficient to meet the entire country's demand. The exact percentage of domestic production versus total consumption varies annually but generally remains below 50% of total oil & gas consumption.

Given the shortfall in domestic production, Croatia relies significantly on imports to meet its energy requirements. Historically, much of Croatia's natural gas was imported from Russia via pipelines, but with the new LNG terminal on Krk Island, the country has diversified its gas supply sources. For oil, Croatia also depends on imports, primarily processed through the JANAF pipeline system, which is connected to other European networks.

A substantial portion of Croatia's energy requirements is met by oil & gas. These hydrocarbons are crucial for the transportation sector, heating, and electricity generation, although there is a significant push toward increasing the share of renewable energy sources (as already mentioned above several times in order to emphasize the "renewable energy pressure in the EU").

The Croatian Bureau of Statistics published data indicating that the overall import of oil derivatives was 228 thousand tons for September 2023, while the export of oil derivatives was 197 thousand tons in September 2023. In 2021. Croatia imported crude oil in the amount of 1,761.7 thousand metric tons, and exported 472.5 thousand metric tons, while the Energy supplied amounted to 1 900.3 thousand metric tons. It stems from the report of the Ministry for the year 2022 that the domestic production of natural gas in 2022 amounted to 745.0 million cubic meters, representing approximately 30 percent of total gas consumption (2,529.7 million cubic meters). Exports of natural gas amounted to 1,062.0 million cubic meters, while imports amounted to 3,021.5 million cubic meters. Furthermore, the same report indicates that domestic production of crude oil in 2022 amounted to 548.0 thousand tons, representing approximately 31 percent of the total crude oil processed (1,757.8 thousand tons). Exports of crude oil amounted to 202.4 thousand tons, while imports amounted to 1,473.9 thousand tons or 84 percent of the total processed in refineries.

Croatia is connected through various pipelines for both oil & gas. The JANAF pipeline is a significant conduit for oil imports and exports, running through several countries in the region. For natural gas, before the LNG terminal became operational, pipelines were the primary mode of importation, notably connections from Hungary and Slovenia.

The LNG terminal on Krk Island, operational since early 2021, has become a crucial infrastructure for gas imports. It allows Croatia to import LNG from various global suppliers, enhancing the country's energy security and diversifying its energy sources.

2.3. Foreign Investment and Participation

Under the Croatian Act on Exploration and Exploitation of Hydrocarbons (Official Gazette nos. 52/18, 52/19, and 30/21; Cro. Zakon o istrazivanju i eksploataciji ugljikovoikda; Hydrocarbons Act), it is envisaged that tender/bidding documentation can determine that the national oil company is obliged to participate with the selected bidder in the project of exploration and exploitation, in a percentage not less than 10% and not greater than 30%. The Ministry will ensure that there is no discrimination between oil and mining entities. However, the Ministry may, for reasons of national security, refuse to issue a permit to any oil and mining entity that is under the actual control of third countries or nationals of third countries.

2.4. Protection Of Investment

Croatia, as a member of the European Union and a participant in various international agreements, is subject to several significant international treaties and multinational arrangements that influence its energy sector, particularly in oil & gas:

- Croatia was a party to the Energy Community Treaty even before becoming an EU Member State. The Energy Community Treaty aims to extend the EU internal energy market to South East Europe and beyond. The treaty's provisions focus on creating an integrated energy market that allows for the free movement of oil, gas, and electricity across borders. It also requires the implementation of EU energy legislation on competition, environment, and energy efficiency. Above the latter Croatia is a signatory of the International Energy Charter (signed on May 20, 2015).
- As an EU Member State, Croatia is part of the EU's Energy Union, which seeks to ensure secure, sustainable, competitive, and affordable energy across the EU pursuant to the European Union's Energy Union Strategy. This includes compliance with EU regulations on the internal energy market, renewable energy, energy efficiency, and emissions reductions. The Third Energy Package, which aims to liberalize markets and separate supply from transmission interests, is especially influential.

- Although not specifically an energy treaty, the Paris Agreement on climate change significantly affects energy policies in Croatia, as the country has committed to reducing its carbon emissions. This has direct implications for the oil & gas sector, pushing for cleaner energy sources and technologies.

The revised Trans-European Networks for Energy (TEN-E) entered into force in June 2022. This EU policy focuses on linking energy infrastructure across Europe, including pipelines and LNG terminals, which are crucial for Croatia's energy import and export capabilities. TEN-E supports projects that enhance energy security and integration, such as the LNG terminal on Krk Island and interconnectors with neighboring countries.

The international treaties and EU directives require Croatia to maintain a regulatory framework that supports market liberalization, competition, environmental protection, and energy security. This includes the legal and operational separation of activities related to the transmission, distribution, and supply of gas and oil. Multinational agreements encourage and sometimes financially support the development of critical infrastructure. This can be seen in the investment in the Krk LNG terminal and improvements in pipeline connectivity. Commitments under the EU and global climate frameworks push Croatia toward adopting cleaner energy technologies and reducing dependence on fossil fuels. This influences policies that regulate oil & gas exploration and production, encouraging a shift to more sustainable energy sources. Overall, Croatia's oil & gas regulatory policy is deeply influenced by its commitments under these international treaties, which guide its domestic legislation and policy decisions toward a more integrated, secure, and sustainable energy landscape.

3. Exploration of Oil & Gas

3.1. Granting of Oil & Gas Exploration Rights

As stated in the section 2.1. above, Hydrocarbons (meaning oil, natural gas, and gas condensate) are of great interest to the Republic of Croatia and therefore enjoy special protection under the regime prescribed by the Croatian law. The relevant legal framework in this field consists of: Hydrocarbons Act, Mining Act (Official Gazette nos. 56/13, 14/14, 52/18, 115/18, 98/19 and 83/23; Cro. Zakon o rudarstvu), Act on the Establishment of the Croatian Hydrocarbon Agency (Official Gazette nos. 14/14, 73/17, 84/21 and 155/23; Cro. Zakon o osnivanju Agencije za ugljikovodike), Act on Safety in Offshore Exploration and Exploitation of Hydrocarbons, Ordinance on Fees for the Exploration and Exploitation of Hydrocarbons (Official Gazette nos. 25/20 and 43/23; Cro. Uredba o naknadi za istrazivanje i eksploataciju ugljikovodika) and the Rulebook on Basic Technical Requirements, Safety and Security in the Exploration and Exploitation of Hydrocarbons from the undersea of the Republic of Croatia (Official Gazette nos. 52/10 and 52/18; Cro. Pravilnik o bitnim tehnickim zahtjevima, sigurnosti i zastiti pri istrzivanju i eksploataciji ugljikovodika iz podmorja Republike Hrvatske).

The pivotal permit in this domain is the permit for hydrocarbon exploration and exploitation, which encompasses the right to directly conclude agreements for both exploration and exploitation of hydrocarbons, the right to conduct hydrocarbon exploration, and the right to direct allocation of a permit for hydrocarbon extraction (the Hydrocarbon Exploration and Exploitation Permit). The Hydrocarbon Exploration and Exploitation Permit is typically granted after a public tender and the selection of the most suitable bidder, for a duration of up to 30 years, covering both the exploration and exploitation phases. The validity of the permit begins upon the effective date of the executed hydrocarbon exploration and exploitation agreement (the Hydrocarbon Exploration and Exploitation Agreement).

The key regulatory authorities in this field are the ministry responsible for energy (Ministry), the Croatian Government, the Croatian Hydrocarbon Agency and the Coordination for Safety in Offshore Exploration and Exploitation of Hydrocarbons Agency. The role of the Ministry involves drafting regulations, providing recommendations to the Croatian government for decision-making on issuing Hydrocarbon Exploration and Exploitation Permit, negotiating Hydrocarbon Exploration and Exploitation Agreements, maintaining public registers, conducting assessments of reports and oil-mining project, etc. The primary role of the

Croatian government is issuing Hydrocarbon Exploration and Exploitation Permit and entering into Hydrocarbon Exploration and Exploitation Agreements. The main responsibilities of the Croatian Hydrocarbon Agency include preparing and participating in tender processes, determining the hydrocarbon exploration and exploitation fees, ensuring conditions for the effective execution of Hydrocarbon Exploration and Exploitation Permit, as well as the Hydrocarbon Exploration and Exploitation Agreements, monitoring trends and international standards in exploration and exploitation, preparing reports and similar. The Coordination for Safety in Offshore Exploration and Exploitation of Hydrocarbons Agency is responsible for overseeing the compliance with legal obligations prescribed for oil and mining economic entities involved in offshore exploration and exploitation activities (investors, operators, owners, contractors), primarily focusing on the prevention of major accidents and the mitigation of their consequences.

The government has several key initiatives and policies in relation to oil & gas development, with a strong focus on energy security, sustainability, and economic development. The expansion of the LNG Terminal (on the island of Krk) is one of the major initiatives. The capacity has already been increased from 2.6 to 2.9 billion cubic meters, and there are plans to expand it further with the support of European partners. This initiative aims to enhance Croatia's energy security and reduce dependency on Russian gas. The 2030 National Development sets strategic goals for Croatia's development until 2030, emphasizing green transition, digital transformation, and economic resilience. Within this framework, energy policy plays a critical role, particularly in ensuring sustainable growth and improving energy infrastructure. The National Recovery and Resilience Plan, as a part of the broader European Union efforts, Croatia is leveraging over EUR 25 billion in European funds to boost productivity, competitiveness, innovation, and job creation. This includes significant investments in energy infrastructure, aiming to support the country's economic recovery and long-term growth. Furthermore, in response to the geopolitical tensions and the potential cutoff of Russian gas supplies, Croatia has taken proactive steps to secure its energy supply. This includes filling the underground gas storage facility Okoli and advocating for joint gas procurement at the EU level to stabilize gas prices and supply. The Croatian government continues to update and implement legislative measures to support the above-mentioned initiatives. This includes policies aimed at enhancing energy efficiency, promoting renewable energy sources, and ensuring the sustainability of energy projects. These initiatives reflect Croatia's commitment to enhancing its energy independence, promoting sustainable development, and aligning with the broader European energy policies.

3.2. Foreign Exploration

In connection to the above-stated, it is worth noting that a tender for the exploration and exploitation of hydrocarbons is conducted through the collection, review, and evaluation of bids from interested investors as a first step of the process. After the latter, Hydrocarbon Exploration and Exploitation Permits are issued to the selected bidders (investors) and the culmination of the process is in the execution of a Hydrocarbon Exploration and Exploitation Agreement. The investor/concessionaire may transfer in whole or in part the rights and obligations arising from the Hydrocarbon Exploration and Exploitation Permit and the Hydrocarbon Exploration and Exploitation Agreement to another oil and mining entity only if the government, upon the proposal of the Ministry, grants express prior written consent for such a transfer, which the government provides based on the amendment of the Hydrocarbon Exploration and Exploitation Permit. The investor is obliged to seek prior written consent from the government even when the rights and obligations from the Hydrocarbon Exploration and Exploitation Permit and the Hydrocarbon Exploration and Exploitation Agreement are transferred to an affiliated company or when the transfer occurs due to any status change of the investor. In the case of a transfer of the rights to dispose with hydrocarbons, the investor remains jointly and severally liable for all rights and obligations arising from the Hydrocarbon Exploration and Exploitation Permit and the Hydrocarbon Exploration and Exploitation Agreement together with the affiliated company. The entity for which the investor/current concessionaire requests a transfer to be approved

must meet all conditions for the issuance of the Hydrocarbon Exploration and Exploitation Permit as envisaged by the applicable law, i.e., the Hydrocarbons Act. The investor is obliged to inform the Ministry without delay about the intention to transfer the rights and obligations arising from the Hydrocarbon Exploration and Exploitation Permit and the Hydrocarbon Exploration and Exploitation Agreement, and the Government, through the national oil company, has pre-emption right to acquire a share in the rights and obligations arising from the Hydrocarbon Exploration and Exploitation Permit and the Hydrocarbon Exploration and Exploitation Agreement. In addition, the pre-emption right applies to an entity proposed by the Government, that meets necessary requirements.

3.3. Stages of the Exploration Process

N/A

3.4. Obligatory State Participation

The state envisaged its participation through the savvy formulation of Article 18 Paragraph 1 of the Hydrocarbons Act, in a way that the bidding documentation can require the participation of the national oil company, with the investor that will be selected, in the percentage of no less than 10%, and no more than 30% (as already stated above). The state has many benefits from foreign participation in the oil & gas sector, namely referring to compensation in the form of monetary compensation and the allocation of quantities of extracted hydrocarbons. The total monetary compensation for the exploration and exploitation of hydrocarbons consists of the monetary compensation for the area of the approved exploration space, determined by registration in the register of exploration spaces of the Ministry, the monetary compensation for the area of the determined exploitation field, determined by registration in the register of exploitation fields of the Ministry, the monetary compensation for the conclusion of a contract between the investor and the Government based on the issued Hydrocarbon Exploration and Exploitation Permit, the monetary compensation for the quantities of extracted hydrocarbons, additional monetary compensation for achieved hydrocarbon exploitation, the monetary compensation for administrative costs.

All geological, geochemical, geophysical, engineering, and other data collected during the exploration or exploitation, including all analyses, interpretations, and studies conducted based on such data, are the exclusive property of the Republic of Croatia.

3.5. Risks To Be Considered

Companies must navigate a complex regulatory framework to obtain the necessary permits and licenses for exploration and exploitation and must adhere to the rules and obligations envisaged by them. Non-compliance can lead to delays, fines, or revocation of licenses. Strict environmental laws govern the impact on ecosystems, as Croatia adopted the acquis communautaire, apply. Breaches of agreements (primarily referring to the concession agreements) between investors and the Government can result in significant financial liabilities and termination of agreements. Mismanagement or unauthorized use of data (which is in the exclusive ownership of the Republic of Croatia) can lead to serious legal consequences, i.e., repercussions.

4. Production of Oil & Gas

4.1. Granting Of Oil & Gas Production Rights

Under Croatian law, the granting of oil and gas production rights is governed by the following legal framework: Oil and Oil Derivatives Market Act (Official Gazette nos. 19/14, 73/17 and 96/19; Cro. Zakon o trzitu nafte i naftnih derivata), Gas Market Act (Official Gazette nos. 18/18 and 23/20; Cro. Zakon o trzistu plina), Energy Act (Official Gazette nos. 120/12, 14/14, 95/15, 102/15 and 68/18; Cro. Zakon o energiji), Rulebook on Permits (Official Gazette no. 44/2022; Cro. Pravilnik o dozvolama za obavljanje energetskih djelatnosti i vodenju registra izdanih i oduzetih dozvola za obavljanje energetskih djelatnosti). As opposed to exploration, the production of oil and gas is governed by a separate legal framework for each hydrocarbon respectively.

Concerning oil production, under Art. 4(2) of the Oil and Oil Derivatives Market Act legal and natural persons can carry out an energy activity, such as the production of oil derivatives, only based on a decision by the Croatian Energy Regulatory Agency (HERA). Similarly, the same condition

is prescribed for gas production under Art. 4(6) of the Gas Market Act. Art. 4(2) of the Rulebook on Permits sets out the following conditions under which HERA can issue permits for performing energy activities in Croatia, such as oil and gas production: (i) the legal or natural person needs to be registered for performing the relevant energy activity in Croatia, (ii) they must fulfill the requirements of technical qualification, professional competence, and financial qualification set out under Arts. 5-7 of the Rulebook on Permits, and (iii) there must not exist hurdles as prescribed by Art. 17(1)(5) and (6) of the Energy Act. Special provisions under the Rulebook apply to legal and natural persons who, according to the regulations of the EU, are holders of projects on the List of Projects of Common Interest of the EU, and to active traders and/or suppliers of gas from a member state of the EU. Notably, for both oil and gas production, HERA reserves discretion in deciding whether to grant the permit to the relevant legal or natural person or not.

The pivotal permits in this domain are the permit for the production of oil derivatives and the permit for the production of natural gas. The respective permits grant their holder the right to carry out the relevant energy activity. It is important to note that, as evidenced in the Register of Permits for Carrying out Energy Activities, the only legal person who was granted a permit for the production of both oil derivatives and natural gas was INA d.d., Croatia's leading oil company. For oil derivatives, INA d.d. had their permit extended on December 14, 2018. for a period of 15 years, whereas for natural gas, it had its permit extended on December 11, 2021, for a period of 9 years.

The key regulatory authorities in this field are the "Office for Energy" as part of the Ministry of Economy (Ministry), HERA, and the Croatian Hydrocarbon Agency (Hydrocarbon Agency). Under Art. 1(2) of the Rulebook on Permits, HERA's role consists of carrying out the process of issuing, extending, transferring, and terminating the validity of a license for the production of oil and gas. Furthermore, it also maintains a register of issued and revoked licenses. Conversely, as set out under Arts. 7 and 10 of the Oil and Oil Derivatives Market Act the Ministry participates in the preparation of spatial planning documents adopted by the Croatian Parliament and it creates conditions for and oversees the safe, regular, and quality supply of the oil and oil derivatives market in Croatia. In addition, the Ministry is responsible for cooperating with and representing Croatia in the EU Commission and the International Energy Agency. Finally, the Hydrocarbon Agency is responsible for maintaining a register and statistical summaries regarding the quantity, structure, location, and availability of mandatory reserves of oil and oil derivatives, which it provides to the Ministry, as set out under Art. 14(5) of the Oil and Oil Derivatives Market Act. Moreover, under Art. 15(3) of the same Act, the Agency is responsible for determining the quantity and structure of mandatory reserves for the current year. Under para. 5 of the same provision, the Agency is responsible for releasing mandatory reserves onto the market at market prices.

4.2. Foreign Production

Under Croatian law, the same process and law apply to the granting of exploration and production rights of oil and gas. The relevant procedures outlined in sec. 3.2. apply both to the production of oil and gas.

4.3. Stages of the Production Process

N/A

4.4. Obligatory State Participation

As established in sec. 3.4., the Hydrocarbons Act provides that the tender specifications may oblige INA d.d., the national oil company, to participate in the project with the selected investor between 10% and 30%. The process is applicable to exploration from sec. 3.4. is the same one applicable to oil and gas production.

4.5. Risks To Be Considered

As of 2022, crude oil is produced in 38 oil fields, and gas is produced in nine gas condensation fields [Annual Energy Report for 2022 of the Croatian Ministry of Environment and Energy, Energy in Croatia 2017, page 95]. As of 2023, 19,6% of Croatia's GDP came from tourism, which is mainly successful due to the country's nature, e.g.: clear beaches, biodiverse ecosystems, clean environment, etc. Effectively, every one of the 38 oil or the nine gas condensation fields in

the country represent a potential source of danger that could lead to an environmental catastrophe. Such a catastrophe would not only directly impact the country's environment, but it would also indirectly have a negative impact on tourism. This is because tourists would be likely be reluctant to visit the country if they cannot enjoy its natural wonders which Croatia is known for. Additionally, the vast natural gas fields in the Adriatic basin present a danger for the whole Adriatic due to the current of the Croatian part of the sea which flows from south to north, and curves towards Venice, continuing south. Accordingly, a natural gas spill in Croatia could cause significant environmental damage to the Adriatic ecosystems in the north of Croatia, Slovenia, and Italy.

Furthermore, in the past decades, Croatia has experienced increased seismic activity. Earthquakes in Petrinja in Zagreb, which respectively reached 6,2 and 5,5 units on the Richter scale are a testament thereof. Since a majority of the oil fields are located in the Pannonian basin which is fairly close to the hypocenters of the aforementioned earthquakes, additional risks of environmental disaster are present. Therefore, it is necessary to navigate oil and gas production in Croatia with the utmost care for the environment.

5. Termination of Production of Oil & Gas

5.1. Abandonment and Decommissioning

The abandonment and decommissioning regime are governed by the Hydrocarbons Act, which prescribes that the investor (i.e., holder of the Hydrocarbon Exploration and Exploitation Permit) must abandon at least 25% of the exploration area at the end of the first exploration phase and the remaining portion at the end of the second exploration phase. However, the investor is not obligated to abandon any part of the exploration area designated as an appraisal area defined in the appraisal work program or any part identified as one or more exploitation fields.

The decommissioning has to be conducted in accordance with the Hydrocarbons Act, special regulations pertaining to environmental and nature protection, safety of people and property, protection of human health, as well as international best practices in oil and mining operations. The investor is obliged to inform the energy inspection in the field of oil mining and the environmental protection inspection of the State Inspectorate about decommissioning. Upon inspection, if it is determined that decommissioning has been carried out satisfactorily, with adequate security and environmental safeguards in place, and if the remediation efforts are deemed sufficient, the investor will receive confirmation from the inspections. Conversely, should inspections find deficiencies in the remediation and security measures during decommissioning, the investor will be instructed to address these shortcomings within a specified timeframe, not exceeding six months. If the investor fails to comply with the order issued in the case of detected insufficiencies, the inspections will inform the ministry responsible for the energy sector and the Croatian Hydrocarbon Agency thereof, and the Croatian Hydrocarbon Agency will undertake necessary security measures and remediation at the expense of the investor. Before abandoning the exploration or exploitation area, the investor is required to settle all fees associated with the exploration and exploitation. Upon the request for deletion of the exploitation field from the register of exploitation fields, the investor shall submit to the Ministry certificates issued by inspections as evidence of fulfilling the obligations set by applicable regulations, unless the reserve assessment commission determines that the reserves have not been utilized and that there is a possibility of further oil and mining operations.

Environmental protection measures apply to the investor, who must implement all necessary steps to safeguard the environment, nature, human health, and property during oil and mining operations, as per the conditions stipulated in the Hydrocarbon Exploration and Exploitation Permit and the terms of the Hydrocarbon Exploration and Exploitation Agreement. This specifically entails: taking all requisite precautions to prevent pollution by employing the best available technologies; avoiding environmental contamination; minimizing or eliminating waste generation; and refraining from injecting water into wells in quantities exceeding 1,000 cubic meters per fracturing stage or 10,000 cubic meters throughout the entire fracturing process ("hydraulic fracturing with high-volume fluid"), as recommended at the EU level and

similar practices.

5.2. Environmental and HSE Consideration

Upon receiving the confirmation from the inspections and the confirmation that all fees associated with the exploration and exploitation have been settled the investor will request that the Ministry issues a resolution on the deletion of the exploitation field from the register of exploitation fields.

6. Safety of Oil & Gas Exploration and Production

6.1. International Treaties to Which the Jurisdiction Is a Party

N/A

6.2. Offshore Safety Directive

Act on Safety of Offshore Exploration and Production of Hydrocarbons entered into force on July 25, 2015, and became fully applicable as of July 19, 2018. Above the latter act, two by-laws have been adopted to implement the so-called OSD directive, the Rulebook on investigations of major accidents in offshore exploration and exploitation of hydrocarbons (Official Gazette 52/2021; Cro. Pravilnik o istragama velikih nesreca pri odobalnom istrazivanju I eksploataciji ugljikovodika) and the Ordinance on the Coordination for Safety in Offshore Exploration and Exploitation of Hydrocarbons (Official Gazette no. 74/2017, 14/2021; Cro. Uredba o Koordinaciji za sigurnost pri odobalnom istrazivanju i eksploataciji ugljikovodika)

7. Import, Export, and Sales of Oil & Gas

7.1. Import and Export of Oil & Gas

As envisaged by the Act on the Market for Petroleum and Petroleum Products, natural or legal persons can conduct operations, i.e., business of oil and oil derivatives exclusively based on the resolution of the HERA. Likewise, natural or legal persons may sell and/or deliver gas products based exclusively on the resolution of the Croatian Energy Regulatory Agency. Cross-border sales and deliveries of oil & gas are conducted pursuant to bilateral agreements between the parties, and depending on market, i.e., geopolitical conditions. In the event of a crisis, certain extraordinary measures (including import and export restrictions) can be taken based on the Energy Act, the Decision on Plan of Interventions on Measures of Protection of Security of Gas Supply of the Republic of Croatia (Official Gazette No. 127/2022; Cro. Odluka o donosenju Plana intervencije o mjerama zastite sigurnosti opskrbe plinom Republike Hrvatske), and the Ordinance on Criteria for the Acquisition of the Protected Customer Status in the Event of a Gas Supply Crisis (Official Gazette Nos. 65/2015; Cro. Uredba o kriterijima za stjecanje statusa zasticenog kupca u uvjetima kriznih stanja u opskrbi plinom) over and above that certain reporting/registration obligations to the CNB may also be required depending on the specific transaction of gas. As far as oil is concerned, although stemming from different legal grounds, the same principles apply, i.e., in the event of a crisis certain extraordinary measures (such as import and export restrictions) can be taken on the basis of the Energy Act, and the Act on the Market for Petroleum and Petroleum Products. Generally, producers, traders, and importers of oil and oil products have an obligation to report certain transactions pertaining to oil to the Ministry of Economy and Sustainable Development pursuant to the Rulebook on Data which energy subjects are obliged to deliver to the Ministry (Official Gazette Nos. 132/2014, 16/2015, 127/2019; Cro. Pravilnik o podacima koje su energetski subjekti duzni dostavljati Ministarstvu).

7.2. Transportation

Domestic gas transmission lines are owned and operated by the 100 percent State-owned company PLINACRO d.o.o. which was separated from INA in 2002. In 2007, PLINACRO d.o.o. was designated as the transmission system operator (TSO) for a period of 30 years. According to the list of HERA's license registry only PLINACRO d.o.o. is licensed for the transportation of gas. Terms on which gas can be transported are set by relevant legislation. Nonetheless, Article 79 of the Gas Market Act (Official Gazette Nos. 18/2018, 23/2020; Cro. Zakon o trzistu plina) states that access to the upstream pipeline network is subject to the negotiated third-party access regime. The gas transmission tariff regime is based on the HERA's Methodology for determining tariff rates for gas transportation (Official gazette Nos. 79/2020, 36/2021; Cro. Metodologija utvrdjivanja iznosa tarifnih stavki za transport plina). Concession for the construction of a

distribution system is stipulated in chapter VIII of the Gas Market Act. In the case of a concession for the construction of a distribution system for gas, the concession grantor is obligated, in addition to the preparatory actions for granting the concession as prescribed by the regulations governing concessions, to obtain location permits for high-pressure or medium-pressure distribution pipelines from the connection point to the transportation system, including the connection, up to the reduction stations.

Oil transportation is conducted through the JANAF oil pipeline, (the pipeline's installed capacity is 24 million tons) which was constructed in 1979 (Ownership structure of JANAF: Ministry of Finance/Croatian pensions fund 37,26%, Croatian Restructuring and Sale Centre 26,28%, Ministry of finance/Republic of Croatia 14,97%, OTP bank 11,80 %, HPB d.d./HEP d.d. 5.36%, OTP BANKA d.d. obligatory pension fund category B 2.31%, ERSTE & STEIERMARKISCHE BANK d.d./PBZ - obligatory pension fund category B 0,42%, OTP bank d.d. obligatory pension fund category A 0,20%, ZAGREBACKA BNANKA d.d. voluntary pension fund 0,18%, UNION d.d. 0.11%, other private and institutional investors 1,11%). Transportation terms for the oil transportation through the JANAF pipeline system are encapsulated in the Technical Conditions of Access to Transportation Capacities of JANAF (No. 433/20; Cro. Tehnicki uvjeti za pristup transportnim kapacitetima JANAF-a). As of 2014, oil transportation by oil pipelines is no longer a regulated energy activity, and the negotiated third-party access is not based on the tariff system for oil transportation. The price for oil transportation by pipeline is based upon negotiated commercial conditions. The price of oil and oil products storage is not regulated; it is based upon existing market conditions.

Most of the LNG import is done through the LNG terminal located on the island of Krk. The terminal started operations in early 2021 and it is of crucial importance to the Republic of Croatia due to its strategic position, allowing the Republic of Croatia to play a significant role in the Central and Southeast European gas market. While the terminal is primarily focused on importation to meet domestic and regional gas needs, it also has the potential to facilitate the export of gas, depending on regional demand and market dynamics. The terms for the use of the LNG terminal are encapsulated in the following legislation: Liquefied Natural Gas Terminal Act (Official Gazette Nos. 57/18, 83/23; Cro. Zakon o terminal za ukapljeni prirodni plin), Rules for the Use of the Liquefied Natural Gas Terminal (Official Gazette Nos. 87/21, 72/22 and 15/24; Cro. Pravila koristenja terminala za ukapljeni prirodni plin), the Methodology for Determining the Amount of Tariff Items for the Reception and Dispatch of Liquefied Natural Gas (Official Gazette Nos. 48/18 and 79/20; Cro. Metodologija utvrdivanja iznosa tarifnih stavki za prihvat i otpremu ukapljenog prirodnog plina), Methodology for Determining the Price of Non-Standard Services for Gas Transport, Gas Distribution, Gas Storage, Reception and Dispatch of Liquefied Natural Gas, and Public Gas Supply Service (Official Gazette Nos. 48/18, 25/19, 134/21 and 9/22; Cro. Metodologija utvrdivanja cijene nestandardnih usluga za transport plina, distribuciju plina, skladistenje plina, prihvat i otpremu ukapljenog prirodnog plina i javnu uslugu opskrbe plinom), Decision on the Amount of Tariff Items for the Reception and Dispatch of Liquefied Natural Gas (Official Gazette 108/22; Cro. Odluka o iznosu tarifnih stavki za prihvat i otpremu ukapljenog prirodnog plina), Decision on the Price List of Non-Standard Services of the Liquefied Natural Gas Terminal Operator (Official Gazette No. 108/22; Cro. Odluka o cjeniku nestandardnih usluga operatora terminala za ukapljeni prirodni plin).

Transportation of oil & gas is of utmost public interest and it is classified as a public service, hence those are strictly regulated activities, which leave little to no space for the parties to negotiate, and when leaving space to negotiate certain terms, stringent limits/frameworks of applicable legislation apply.

Apart from licenses issued by the regulatory authority (HERA), concessions for gas distribution and concessions connected to oil transportation, or a concession for the building of a distribution system are required to operate a distribution network. Prior to the granting of a concession, a tendering process has to be conducted in accordance with applicable laws and all requirements regarding transparency must be met in the due course of possible tendering processes.

Depending on the specific project, several other authorizations and approvals/permits (of different competent authorities) may be required, such as ones pursuant to regulations governing physical planning and building or water regimes and maritime domains.

7.3. Land Rights

Considering the fact that JANAF d.d., PLINACRO d.o.o., and LNG HRVATSKA d.o.o. operate and maintain all conduits necessary for the current supply of oil & gas (including liquified natural gas) and they are mostly/or completely (as the case may be) owned by the Republic of Croatia it is highly unlikely that some other entity could obtain a building, i.e., location permit necessary for the construction of the possibly envisaged infrastructure or to conclude the concession agreement. Nevertheless, it is worth noting that location permits are issued by the competent administrative or county offices, i.e., the Ministry of Physical Planning, Construction, and State Assets, depending on the place where the construction or reconstruction of the facility is planned. The list of competent offices is available on the website of the Ministry of Physical Planning, Construction, and State Assets.

Government authorities or Transmission System Operators (TSOs) have the power to initiate the compulsory acquisition, i.e., expropriation (in the public interest), also known as eminent domain, to facilitate land access for infrastructure projects such as pipelines and other conduits if the interest of the Republic of Croatia is ascertained. This power allows the government or its designated entities to acquire private land when the interest of the Republic of Croatia is determined, provided that just compensation is paid to the landowners. This right of expropriation is crucial for the development and maintenance of essential infrastructure, such as oil pipelines, gas pipelines, and other utilities, which typically require continuous corridors of land that span multiple properties. Since these conduits must pass through extensive areas, it is rare that all necessary land plots are already owned by the state or a single investor. Energy transportation, which is vital for national infrastructure, is deemed to be of interest to the Republic of Croatia. Stated powers ensure that essential projects can proceed without being unduly hindered by individual land ownership disputes, thereby balancing private property rights with the needs of the broader community.

7.4. Access and Integration

For the third-party access regime/rights with respect to oil and natural gas transportation and associated infrastructure please refer to Section 7.2.

7.5. Gas Transmission and Distribution

Please refer to in Section 7.2.

8. Trading

8.1. Trading License

The natural gas trading sector in Croatia is governed by the provisions laid down in the Gas Market Act, Energy Act, and Act on the Regulation of Energy Activities (Official Gazette Nos. 120/2012, 68/2018; Cro. Zakon o regulaciji energetskih djelatnosti) and by-laws adopted pursuant to these acts.

Gas trading is a market energy activity and is performed based on market principles, i.e., gas prices in market activities amongst gas market participants are freely contracted. The gas trader has the right to: (i) trade gas with participants in the gas market, except for end customers; (ii) use, under the regulated conditions, the services of the transport system operator, gas market operator, gas storage system operator and the services of the LNG terminal operator, based on concluded contracts; (iii) to access to the network of gas production pipelines, transport system, gas storage system, including access to operational storage, in accordance with the prescribed rules.

In order to pursue a gas trade activity in Croatia, a license for trading, issued by HERA, is required. In case the intended activities of wholesale trading of gas also include the sale of gas to end customers, a license for supply, issued by HERA, is required. The license is issued within 30 days or in the case of the examination procedure within 60 days.

Legal entities established in Croatia can provide services on a permanent basis in Croatia if they obtain the license for performing the energy activity of gas trading from HERA. Legal entities established in third countries must establish a branch office or a company in Croatia in order to provide

services in Croatia, and after establishment obtain the license for performing the energy activity of gas trading from HERA.

Legal entities established in EU/EEA countries can provide the activity of gas trading on the basis of (i) the freedom to provide services or (ii) on the basis of the freedom of establishment:

1. legal entities established in EU/EEA countries that are active gas traders in the country of their establishment have the freedom to provide services without the obligation of establishment in Croatia, under the condition that they obtain a license for carrying out the energy activity of gas trading according to a simplified procedure. HERA shall access The Central European Register of Energy Market Participants to confirm whether the active gas trader from an EU member state participates in the European energy market. HERA can request the information on fulfillment of conditions for performing the energy activity of gas trading for the applicant from an EU Member State from the regulatory body of the EU Member State of the applicant's establishment.
2. legal entities established in EU/EEA countries have the freedom to provide services on a permanent basis in Croatia if they register an establishment in Croatia and obtain the license for performing the energy activity of gas trading from HERA.

The entry-exit model and a virtual trading point (VTP) were introduced in Croatia on January 1, 2014. Rules relating to VTP are prescribed under the Rules on the Gas Market Organisation (Official Gazette Nos. 50/2018, 154/2022; Cro. Pravila o organizaciji trzista plina) and the Transportation Network Rules (Official Gazette Nos. 50/2018, 31/2019, 89/2019, 36/2020, 106/2021, 58/2022, 9/2024; Cro. Mrezna pravila transportnog sustava). VTP is defined as a point of gas trading following its entry into the transmission network and prior to its exit from the transmission network including the gas storage system. To trade on the VTP it is not necessary to book entry-exit capacity or storage system capacity. However, only a balancing responsible party (BRP) who is a transmission system user is entitled to trade on the VTP. This means that only market participants in possession of a supply or trade license, and who have signed a transport contract with PLINACRO d.o.o. as the current transmission system operator (TSO), can gain access to the VTP. The Croatian Energy Market Operator (HROTE) publishes, on its website, the form that allows the placing of a bid for the purchase or sale of gas on the VTP. Trading at the VTP is done independently between the BRPs; neither the TSO nor the Croatian Energy Market Operator acts as a clearing house, therefore each party bears the counterparty risks of the other.

Each gas market participant, except for the Croatian Energy Market Operator as the gas market operator, must be a member of the balancing group. A balancing group is a virtual association of one or more gas market participants, which is organized on a commercial basis primarily to optimize the costs of balancing, and which is organized and managed by the BRP. The balancing group is comprised of direct members (i.e., the gas supplier and gas trader) and indirect members (i.e., the final customer). The Croatian Energy Market Operator keeps the register of the BRPs on the gas market and publishes it on its website.

In addition, there is also a trading platform operated by the Croatian Energy Market Operator that enables trading between the BRPs and TSO for the purpose of balancing the gas transmission network.

8.2. Products

Natural gas can be traded as an unbundled commodity, separate from the service of distribution/transportation.

There is currently no commodity exchange in Croatia.

9. Competition

9.1. Authorities

The Croatian Competition Agency (AZTN) is the general competition authority for all sectors and is responsible for ensuring that different kinds of anticompetitive practices (e.g., price fixing, abuse of a dominant position) are detected, assessed, and accordingly sanctioned if they represent infringements of competition rules. The same applies to the assessment of compatibility of concentrations (mergers

and acquisitions). The AZTN carries out investigations and assessments and imposes sanctions in the above-mentioned areas.

In addition, HERA is competent for the regulation and supervision of energy activities in the oil and natural gas market. Amongst various administrative tasks, HERA conducts supervision of the competition and the potential abuse in the energy market and in the supply of customers, supervision of restrictive contracts, especially contracts that limit the number of suppliers, and, if necessary, notifies the AZTN on its findings.

9.2. Anti-Competitive Actions

The AZTN has the following powers:

- identifying prohibited agreements between undertakings and directing commitments needed for the elimination of the harmful effects of anti-competitive behavior;
- identifying abuse of a dominant position of an undertaking/s and prohibiting any further practices leading to the abuse and directing commitments for the elimination of the harmful effects of anti-competitive behavior; and
- ex-ante assessment of the compatibility of proposed concentrations between undertakings (the AZTN can prohibit a certain transaction if it has a significant effect on market competition in the relevant market, especially if it creates a new or strengthens the existing dominant position of the participants in the concentration).

In terms of Croatian competition law, the concentration of entrepreneurs is created by a change of control over the entrepreneur on a permanent basis, which is conducted by: (i) a merger of two or more independent entrepreneurs or parts of these entrepreneurs; (ii) acquiring direct or indirect control or predominant influence of one or several entrepreneurs over another or several other entrepreneurs or part of other entrepreneurs through acquiring the majority of shares, or by acquiring the majority of voting rights. The creation of a joint venture by two or more independent entrepreneurs, which operates on a permanent basis as an independent economic entity, is also considered a concentration.

Unlike the procedures for determining prohibited agreements between entrepreneurs and the abuse of the dominant position of entrepreneurs, which the AZTN always initiates ex officio, the concentration assessment procedure is usually initiated based on the notification of its participants. Since the concentration of entrepreneurs can have positive and negative effects on the market, the AZTN precisely takes into account the effects of the concentration on the relevant market or markets and decides on the evaluation criteria for each individual concentration.

In accordance with the regulations that govern its competence, the AZTN evaluates only business transactions of significant economic strength, which is reflected in the total income of entrepreneurs participating in the concentration. The Croatian Competition Act (Official Gazette Nos. 79/2009, 80/2013, 41/2021, 155/2023; Cro. Zakon o zastiti trzisnog natjecanja), as the only objective and measurable criteria for the existence of the obligation to notify the proposed concentration, determines the amount of the total consolidated annual income of the entrepreneur-participant of the concentration. Therefore, the participants of the concentration are obliged to report any intention to implement the concentration if the following conditions are cumulatively met:

- if the total annual consolidated income of all entrepreneurs participating in the concentration achieved through the sale of goods and/or services on the world market amounts to at least EUR 132,722,808.41 in accordance with the financial statements for the financial year preceding the concentration, if at least one participant in the concentration has its headquarters and/or subsidiary in the Republic of Croatia, and
- if the total income of each of at least two participants in the concentration, in the Republic of Croatia, according to the financial statements, amounts to at least EUR 13,272,280.84 in the financial year preceding the concentration.

If the participants of the concentration fail to report

the concentration to the AZTN for assessment of its permissibility, and such an obligation exists, then the AZTN is obliged to issue an administrative penal measure up to a maximum of one (1) percent of their total income.

If the AZTN, based on the analysis of the data and circumstances from the notification on the concentration, assesses that the implementation of the concentration could have a significant effect on market competition in the relevant market, especially if this concentration creates a new or strengthens the existing dominant position of the participants in the concentration, the Croatian Competition Agency within 30 days from confirming that it has received the all required documentation on consecration renders a Conclusion on the initiation of the procedure for evaluating the permissibility of the concentration.

Then AZTN begins the process of evaluating the concentration's permissibility which includes the extensive collection of data, documentation, and statements necessary for the preparation of an in-depth legal and economic analysis of the relevant market and the effects of a specific concentration on market competition. This involves contacting all entrepreneurs and/or interest associations that operate and/or have knowledge of the relevant market that needs to be analyzed in the process and requesting detailed numerical and financial indicators and business analysis from them.

The decision by which the concentration can be assessed as permitted, conditionally permitted, or prohibited is issued by the AZTN within three months from the date of the Conclusion of the initiation of the procedure, with the possibility of extending that deadline for the additional three months in cases when the AZTN decides that the assessment of all the facts and evidence requires additional analysis.

10. Stability Clause and Dispute Resolution

10.1. Stability Clause

The laws of the Republic of Croatia contain a stability clause for oil & gas companies. The Hydrocarbons Act prescribes in Article 33 that if there are changes or amendments to the legal and other regulations affecting the economic or commercial provisions of exploration and exploitation permits or agreements, the parties involved will negotiate for possible amendments or supplements to ensure a balance of initial interests and planned economic results. However, the stability clause in question does not apply to changes in laws related to employment relations, environmental protection, human health, occupational safety, and safety of oil mining operations.

10.2. Compulsory Dispute Resolution Procedure

Regarding the compulsory dispute resolution procedures, the Hydrocarbons Act prescribes in Article 30 that a PSA has to contain an arbitration clause determining an arbitration in accordance with the international arbitration rules, with the seat of arbitration being in Croatia and with Croatian law as the applicable law. Furthermore, the Concessions Act (Official Gazette nos. 69/17 and 107/20; Cro. Zakon o koncesijama), in Article 97 prescribes that unless the Concessions Act states otherwise, parties to a Concession Agreement may agree on the arbitration in Croatia, with the applicable law being Croatian and on the Croatian language, with an obligation of a previous addressing to the party with a request for an amicable settlement of a dispute, which settlement cannot be shorter than three months from the delivery date of the request. Otherwise, the Concessions Act determines that the disputes arising from the Concession Agreements fall within the scope of the Administrative Court, where the exclusive competency regarding local competency falls within the seat of the concession grantor.

10.3. International Treaty Protection

Croatia is a signatory of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which it ratified in 1993, and the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, ratified in 1998. Regarding whether there are any special difficulties in litigating or seeking to enforce judgments or awards against government authorities or state organs in Croatia, the case of MOL exemplifies some challenges. Namely, Under the Shareholders' Agreement of 2009, MOL obtained operational control of INA. Despite the agreement's provision for the government to take over INA's gas trading business by December 2010, negotiations failed, leading to two arbitration procedures. MOL initiated the arbitration

under ICSID rules in November 2013, while the government initiated arbitration under UNCITRAL rules in January 2014. The former Croatian Prime Minister's conviction for bribery in June 2014 added complexity. In December 2016, the UNCITRAL dismissed Croatia's claims, but the ruling on MOL's claim is pending. The Croatian Prime Minister announced plans to repurchase MOL's INA shares by the end of 2016, but financing through the sale of a stake in the state-owned electricity company HEP faced political opposition. Despite a government advisory committee's formation in January 2017, no concrete sale models have emerged. Lazard was selected as a consultant in July 2019, with plans to extend an offer to MOL in the first quarter of 2020. There is no information available on any resolution of these disputes. These arbitration procedures showcase potential challenges in litigating against government authorities. ■

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CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: OIL & GAS 2024

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1. Summary

The Czech Republic, as a transit country for supplies of natural gas from Russia to Europe, has experienced significant changes after the Russian invasion of Ukraine. Due to its very limited deposits of oil & gas and long-term structural dependence on imports from the Russian Federation, the Czech Republic has been making considerable efforts to ensure supplies from other markets.

Following the 40% annual decrease in gas imports from the Russian Federation in 2022, the Czech Republic has partially replaced Russian imports with natural gas from Norway and LNG from the Netherlands and Belgium. Entities (co)owned by the Czech Republic have also rented extensive capacity in the LNG terminals in the Baltics.

In order to maintain its relevance, the Czech Republic has no other option but to promote its status as a transit country and reap the benefits accordingly. The position might be advantageous while building a hydrogen corridor, as hydrogen holds considerable potential for the future as one of the means leading to transfer to a carbon-free economy. In any case, natural gas itself is expected to remain an important fuel as it is an important fossil fuel in the transformation of the Czech energy sector given the gradual and promoted decrease in coal use and the use of oil products in transport.

2. Overview of The Country's Oil & Gas Sector

2.1 Legal framework-a brief outline of your jurisdiction's oil & gas sector

In terms of mining, the exploitation of natural gas is guided by Act No. 44/ 1988 Coll. On the protection and utilization of mineral resources (the Mining Ad). The same act applies to the extraction and exploitation of oil. The Czech Mining Authority is in charge of the enforcement of the law.

The key legislative framework regarding the trade is laid down in Act No. 458 / 2000 Coll. (the Energy Act) on business conditions and state administration in the energy sector. Under the Energy Act and other regulations, the Ministry of Industry and Trade is the public authority responsible for ensuring the fulfillment of obligations arising from international agreements and treaties. The Energy Regulatory Office (ERO), the market regulator, is responsible for the oversight and economic regulation of the energy sector. ERO sets regulations under the Energy Act. The market operator, OTE, carries out its activities under a license awarded by the ERO and operates the Czech gas and electricity markets. NET4GAS, a company that holds the exclusive gas transmission system operator license (i.e., the license for TSO) and operates pipelines for international transit and national transmission of natural gas, has been recently acquired by the Czech Republic (indirectly, via the state-owned company CEPS) to further stabilize and protect the Czech gas market after the Russian invasion of Ukraine. At the distribution level, tens of companies hold a distribution system operator license (i.e., the license for DSO). As to the trade with oil/petroleum products the specific conditions under the Act. No. 455 / 1991 Coll. (the Trade Licensing Act), apply.

There were some attempts regarding shale gas exploration and production but they were definitely abandoned in 2015 for the risks to the environment were evaluated as excessively high. In addition, the missing gas pipeline interconnections with Poland and Austria discussed for over 10 years have been further postponed and possibly abandoned.

2.2 Domestic oil & gas production and imports/exports

The share of natural gas in total energy consumption is consistently, with the exception of the year 2022, around 20%. Domestic natural gas production in the Czech Republic is negligible and accounts for approximately 1-2% of the domestic demand. The rest of the gas supply is imported via transit systems and pipeline interconnections, located in particular in Germany. Natural gas is to this day mainly imported from the Russian Federation, albeit the supply from Norway, and has been steadily increasing. Exports of natural gas are negligible. However, the country is an important transit corridor for Russian natural gas into CEE and Western European markets.

The Czech Republic does not have substantial crude oil resources. Domestic production covers only approximately 3% of domestic consumption and is on a decrease since the identified domestic crude oil reserves are expected to

be depleted in the next two decades. The country exports marginal amounts of crude oil to neighboring countries. The share of oil in total final consumption is around 30%. The Czech Republic has two major crude oil pipelines - the Druzhba pipeline and the IKL (Ingolstadt - Kralupy - Litvinov) pipeline - both of which are owned, operated, and managed by the state-owned company MERO. The country´s goal is to reduce oil consumption in accordance with the country´s (and EU's) policy to reduce greenhouse gas emissions, by promoting the development of low-emission mobility. The country is expected to gradually reduce import dependency on petroleum products and on the other hand increase product exports, particularly to Central and Eastern Europe. In order to enhance the country's oil security, the diversification of crude oil import routes and cross-border coordination with the neighboring countries is being encouraged.

2.3 Foreign investment and participation

Pursuant to Act No. 34/ 2021 Coll., Foreign Investments Screening Act, investments funded by non-EU entities must in certain cases approved by the local authorities. The act´s goal is to enable assessment of whether foreign investments might have a negative effect on the security of the Czech Republic or its internal or public order, including impact on critical infrastructure, key technologies, and other important entries, which are key from the security perspective (oil & gas sector not excluded). It establishes the rights and duties of foreign investors, whose ultimate beneficial owner is from non-EU countries. As a consequence, it may hinder the implementation of foreign investments in the Czech Republic if these are evaluated by the relevant authorities as high-risk.

In respect of individual persons or legal entities, foreign investments may also be prohibited by sanctions applied by the EU or the Czech Republic primarily toward Russian and Belarussian stakeholders.

2.4 Protection of investment

As an EU member, the Czech Republic is bound to implement and follow the EU legislation in the oil & gas sector. Furthermore, several international treaties on environmental protection apply. Crucial regarding the protection of investments is that the Czech Republic, as an EU member state, must comply with the commitments under the treaties together known as the Energy Charter. However, the coordinated withdrawal from the charter has been approved by both the European Commission and the European Parliament, and most of the EU countries will presumably withdraw from the charter by the end of 2024.

3. Exploration of Oil & Gas

3.1 Granting of oil & gas exploration rights

Reserved mineral mining, including oil & gas, is allowed only upon government authorization in the form of a license for mining activities, granted by the relevant local mining authority, and only on the mining areas approved by the relevant local mining authority. An application for mining area approval is processed by the relevant local mining authority only with the consent of the Ministry of the Environment and the Ministry of Industry and Trade. Administrative proceedings concerning the establishment of mining areas and issuing licenses for mining activities follow rules stipulated by the Mining Act, Act No. 61 / 1988 Coll., on Mining Activities (Mining Activities Ad) and Act. No. 500 / 2004 Coll., the Administrative Code; any party to such proceedings can file an appeal against the issued administrative decisions to the Czech Mining Authority, which is the supreme body of the Czech state mining administration.

3.2 Foreign exploration

EU entities enjoy the same treatment as Czech companies, see Section 3.1. Non-EU entities are also treated the same way as Czech entities, provided that foreign investment is not forbidden by the Foreign Investments Screening Act or the applicable sanctions, see Section 2.3.

3.3 Stages of the exploration process

As to the stages of the exploration process, these are rather complex. To simplify, an entity is authorized to mine the reserved minerals, provided it has obtained (i) a decision on the determination of the exploration area according to the Act No. 62/ 1988 Coll; Geological Works Act; (ii) obtained a certificate of exclusive deposit according to the provisions of Section 6 of the Mining Act; (iii) meets the conditions

stipulated under the Mining Act and obtained authorization to mine the exclusive deposit of a particular mineral under Section 24 et seq. Of the Mining Act; (iv) as well as a permit for opening, preparation, and mining within the meaning of Section 10 of the Mining Act. Further details and specific conditions are stipulated in the Mining Act, Mining Activities Act, Geological Works Act, and implementing legislation.

3.4 Obligatory state participation

According to the Mining Act, the deposits of reserved minerals are referred to as mineral wealth, the owner of which is the state. The principle of state ownership of exclusive deposits is broken at the time of extraction of the minerals when ownership of the minerals passes to the relevant mining organization as a result of their extraction. Thus, the state grants the opportunity to extract its own minerals. To benefit from this arrangement, each licensed mining organization is obliged to pay an annual fee on the minerals extracted to the account of the relevant local mining authority under the conditions stipulated in the Mining Act.

3.5 Risks to be considered

The entities seeking to explore and mine the oil & gas reserves must be aware that there is no legal claim for the respective license. The respective state authorities must take into account all the environmental and other risks; therefore, no license might be granted even after years of preparations.

4. Production of Oil & Gas

4.1 Granting of oil & gas production rights

Gas production is subject to a license granted under the Energy Act. The applicant for the production license must submit the following documents to ERO: an extract from the commercial or other registers, statement of criminal records of members of the statutory body and of the representative (who must be appointed), declaration of the representative's consent to be appointed as representative and their declaration that they are not appointed as a representative for the licensed activity by another license holder, and documents evidencing the financial and technical requirements (e.g. Bank account statements and last annual balance sheet report). Members of the statutory body of the applicant must meet the following conditions: (i) minimum age of 18 years; (ii) full legal capacity; (iii) no criminal record; and (iv) the professional competence of the applicant for the license or the appointed responsible representative. The applicant is also obliged to hold the title to use the premises where its seat is located and needs to demonstrate its ability to provide sufficient funding to financially secure the activities for which the license is required as well as its ability to cover current and future liabilities for all the time the license is granted. The license shall be granted for a time period of up to 25 years.

An entity active in the oil/petroleum business must obtain a trade license if its activities in the territory of the Czech Republic are to be carried out on a permanent, continuous, and systematic basis, as well as independently, in one's name, on one's account and in order to make a profit. Such an entity is obliged to apply for a tied trade license – "to manufacture and processing of fuels and lubricants and fuel distribution" – the granting of which is subject to the fulfillment of certain professional competence requirements. Recognition of professional qualifications obtained in another EU member state for licensed trades in the Czech Republic comes into consideration as well. The detailed conditions are stipulated in Act. No. 455 / 1991 Coll., Trade Licensing Act.

4.2 Foreign production

A license for gas production cannot be obtained by a foreign company directly. Such entities must establish at least a local branch in the Czech Republic. Under Czech law, the branch itself does not have legal capacity, though, and carries out its business only as a part of the foreign company. The applicants for a trade license required from another EU member state may have the professional qualification recognized under the conditions of the Trade Licensing Act. A foreign investor may of course purchase a stake in a Czech company (or the entire company) that holds the necessary licenses.

4.3 Stages of the production process

No separate stages apply, sec the general information above.

4.4 Obligatory state participation

There is no obligatory state participation in the production of

oil & gas. Generally, the benefits for the state arising are such that the foreign company that has a permanent establishment in the Czech Republic must establish a taxable presence in the country. A permanent establishment is defined by a tax treaty or by Act No. 586 / 1992 Coll., on Income Taxes, as amended; consequently, either a subsidiary registered in the Czech Republic or a local registered branch would generally be required to establish a taxable presence. In addition to the general tax liabilities, there is a special tax pursuant to Act No. 261 / 2007 Col., on Stabilization of Public Budgets. Gas producers are subject to this tax if they sell gas to the end-customer at the same time. The listed petroleum products are subject to the excise tax. Also, see Section 3.4.

4.5 Risks to be considered

In this context, we should note that the procedure to obtain the respective production license is rather complex and time-consuming, and there is no claim for granting the necessary license. Otherwise, no particular risks arise.

5. Termination of Production of Oil & Gas

5.1 Abandonment and decommissioning

The Mining Act obliges the organizations holding the mining rights to ensure remediation, which includes the reclamation of all land affected by the mining and the monitoring of the site after its closure. The mining companies are primarily obliged to generate a financial reserve for the remediation and reclamation of areas affected by mining. Its amount must correspond to the rehabilitation and reclamation needs of all the land disturbed during mining activities. Financing of the reclamation activities is then provided in two ways: (i) from the mandatory financial reserves, and (ii) from levies on mining companies. According to the Mining Act, each licensed mining organization is obliged to pay an annual fee on the minerals extracted to the account of the relevant district mining authority. The particular conditions and amounts are provided in the Mining Act and implementing legislation.

5.2 Environmental and HSE consideration

The Czech Mining Authority stipulates the conditions and enforces the compliance with occupational health and safety standards in the mining industry and when utilizing explosives based on the regulatory framework given in the Decree of the Czech Mining Authority No. 26 / 1989 Col/., on occupational health and safety and operational safety in mining and surface mining activities.

6. Safety of Oil & Gas Exploration and Production

6.1 International treaties to which the jurisdiction is a party

The Czech Republic's safety of oil & gas exploration and production regulation reflects the commitments established under the membership in the EU and in the International Energy Agency. Both contractual regimes stipulate, for instance, the obligation to maintain permanent stocks of crude oil and petroleum products. Further, the natural gas emergency response policies are in line with EU Regulation 2011/1938 concerning measures to safeguard the security of the gas supply. According to the regulation, every four years the Czech Republic must prepare risk assessments, a preventive action plan, and emergency plans as part of the emergency planning at national, regional, and EU levels.

6.2 Offshore Safety Directive

The provisions of the Offshore Safety Directive are not in principle relevant for the Czech Republic as a landlocked country and it is as such not obliged to implement them (with some infrequent exceptions).

7. Import, Export, and Sales of Oil & Gas

7.1 Import and Export of oil & gas

As to the import and export of natural gas, pipelines for international transit are operated by NET4GAS which holds the exclusive gas transmission system operator license. There are seven high-pressure pipeline interconnection points between the gas transmission networks of the Czech Republic and its neighboring countries. Despite the recent war in Ukraine, the Czech gas transmission system continues to play an important role in supplying gas to Central and Eastern Europe as well as to Germany and Western Europe. There is no special legislation pertaining to cross-border natural gas transactions. In general, the cross-border market for natural gas is regulated by Regulation (EC) No. 715/2009 on conditions for access to the natural gas transmission networks.

Cross-border sales and deliveries of natural gas are transacted pursuant to bilateral agreements between the parties and the availability of cross-border capacity.

The Czech Republic does not have any oil ports, but crude oil is supplied to the local refineries through two major crude oil pipelines connected with neighboring countries. The Czech Republic has been a net oil products importer but occasionally has exported to Austria, Hungary, and Poland.

7.2 Transportation

The seven high-pressure pipeline interconnection points between the gas transmission networks of the Czech Republic and its neighboring countries are four with Germany, two with the Slovak Republic, and one with Poland. Please also see Section 7.1.

The Czech Republic has two major refineries (Kralupy and Litvinov). The oil security of the country is also backed by major oil storage facilities managed by two Czech state-owned enterprises. The transportation of crude oil for refining is provided by the state-owned MERO, which is the owner and operator of crude oil pipelines, including the Czech sections of the Druzhba and Ingolstadt-Kralupy-Litvínov (IKL) pipelines, and crude oil storage capacities. The network of product pipelines in the Czech Republic is exclusively owned and managed by CEPRO, which connects the main consumer regions, the oil storage and distribution centres of CEPRO, and the refineries in Litvinov, Kralupy, as well as in Bratislava, Slovak Republic. The Ministry of Finance has been the sole shareholder in the company since 2006. The 1,100-kilometer network enables direct pumping and supply between its individual nodes and is fully reversible.

7.3 Land rights

Construction of any natural gas or oil transportation pipeline requires authorization from the Ministry of Industry and Trade. Compliance with the general rules stipulated in the recently adopted Act No. 283/2021 Coll., the Building Code is also required; the relevant administrative proceedings are held in the respective building offices, in particular permits for placement and construction of infrastructure projects significant in size and importance will be handled by the newly established Transport and Energy Building Authority. In addition, a license is required from the ERO in order to operate a natural gas transportation pipeline and storage facilities. The license for the transportation of natural gas is exclusive for the whole territory of the Czech Republic and the current license holder is NET4GAS. Transportation of oil is being operated by a few companies as well.

Under the Energy Act, a transportation (or storage) facility on third-party land may be constructed pursuant to a valid authorization of the project. However, the Energy Act also requires that a valid easement be concluded with the owner of the land in order to establish, reconstruct, repair, and operate the facilities in question. If such owner is unknown or an agreement is impossible to reach, the relevant construction authority can establish the easement under the conditions stipulated in Act No. 416 / 2009 Coll., on Accelerating the Construction of Transport, Water and Energy Infrastructure, and Act. No. 184/ 2006 Coll., on expropriation, in general, regulate the procedure in connection with facilitating and accelerating the construction of listed buildings that are of fundamental importance for the functioning of society, including the conditions for land expropriation, which is, however, considered to constitute a measure of last resort.

7.4 Access and integration

Under Czech law, the operator of the natural gas transportation system is obliged to connect to the transportation system any party upon its request, which complies with the conditions stipulated by the Operation Rules of the Natural Gas Transportation System (the Operational Rules) and at the same time ensure non-discriminatory conditions for such access to the transportation system. Details are set forth in the Operational Rules, the Gas Market Rules, and the Operational Code of the Operator of the Transportation System. Similarly, the operator of the underground storage facilities has a duty to grant access to the relevant storage facility if the relevant conditions are met. As a result of this principle, a customer has the right to connect to the transportation (or distribution) system under certain conditions, and also any entity trading with natural gas is entitled to access to the transportation (or distribution) system,

provided such entity is a party to a relevant written agreement. Any participant in the Czech gas market is entitled to use underground storage facilities as well, provided that there is a free storage capacity in the respective underground gas storage facility and such entity is a party to a relevant written storage agreement. The price for the transportation of natural gas is regulated by the ERO in its price decisions, which the ERO issues separately for individual years. The price for the storage of natural gas is not regulated.

The network of oil product pipelines in the Czech Republic is exclusively owned and managed by CEPRO, which connects the main consumer regions, the oil storage and distribution centres of CEPRO, and the refineries in Litvinov, Kralupy, as well as in Bratislava, Slovak Republic. The Czech product oil pipeline system still remains one of the most important European pipeline networks in terms of location and connections to the Slovak pipeline systems, despite the decline in demand for Russian oil transported by the Druzhba pipeline.

7.5 Gas transmission and distribution

The Czech natural gas transmission network is divided into four branches: the Northern and Southern branches, which run from Lanzhot to the Czech-German borders; the Western branch, which connects the Northern and Southern branches; and the Moravian branch, which supplies the Moravian region (southeastern part of the country) and connects with Poland. These branches are well interconnected, except for North Moravia, which is only connected to the national transmission system via a single pipeline. Company NET4GAS holds the exclusive gas transmission system operator license (i.e., the license for TSO) and operates pipelines for international transit and national transmission of natural gas.

The Czech distribution network is mostly operated by three privately-owned distribution system operators, whose geographical area is clearly defined: Prazska Plynarenska Distribuce serves mostly the region of Prague; EG.D. (from the E.ON group) serves mostly the South Bohemia region; gasnet covers the rest of the Czech Republic. Most of the gas enters the distribution systems through transfer stations connected to the transmission system. A small part of the gas supply comes from domestic extraction and directly feeds into the distribution system. In order to ensure supply reliability, individual regional distribution systems are connected with other distribution systems.

8. Trading

8.1 Trading license

Wholesale activities carried out in the territory of the Czech Republic are subject to licensing in the country if carried out: (i) on a permanent, continuous, and systematic basis; and (ii) independently, in one's name, on one's account and in order to make a profit.

The relevant licensing authority is ERO. The license cannot be obtained by a foreign company directly, such entities must establish at least a local branch in the Czech Republic. Under Czech law, the branch itself does not have legal capacity and carries out its business only as a part of the foreign company. As to the trading license, a foreign company may also apply to ERO for recognition of its license issued in another EU member state.

The applicant for the trading license must submit the listed documents to ERU in order to be granted the license for natural gas trading, such as an extract from the commercial or other registers, a statement of criminal records of members of the statutory body and of the representative (who must be appointed), declaration of the representative's consent to be appointed as representative and their declaration that they are not appointed as a representative for the licensed activity by another license holder, and documents evidencing the financial and technical requirements (e.g. Bank account statements and last annual balance sheet report). Members of the statutory body of the applicant must meet the following conditions: (i) minimum age of 18 years; (ii) full legal capacity; (iii) no criminal record; and (iv) the professional competence of the applicant for the license or the appointed responsible representative. The applicant is also obliged to hold the title to use

The premises where its seat is located and needs to demonstrate its ability to provide sufficient funding to financially secure the activities for which the license is required

as well as its ability to cover current and future liabilities for a period of at least five years. The license shall be granted for a time period of five years. The time period can be extended, even repeatedly, for another five years upon applying for an extension.

8.2 Products

Trading requirements are set forth primarily by the Energy Act and the Gas Market Ru/es (public notice of ERO no. 349/2015 Coll) and are being organized via so-called virtual purchase points. Traders operating in the wholesale gas market can buy gas at commodity exchanges such as in particular Power Exchange Central Group or Czech Moravian Commodity Exchange Kladno, under short-term and long-term contracts, or market participants can also enter into bilateral contracts.

9. Competition

9.1 Authorities

The Office for the Protection of Competition (the Antitrust Office) is the independent central authority of the state administration with competencies to protect the completion and oversight of public procurement and to ensure that the markets function in accordance with the competition rules and to the benefit of consumers. Since there are no sector-specific provisions governing anti-competitive practices in the oil & gas sector, on the national level, the only administrative body responsible for anti-competitive practices is the Antitrust Office. If trade between member states could be affected, the European Commission may act in parallel with or instead of the Antitrust Office.

9.2 Anti-competitive actions

Competitive concerns are common also in the oil & gas sector. The Antitrust Office can initiate an investigation upon receipt of a complaint or at its own instigation. It can request information necessary for conducting the investigation from any entity operating on the market or from state authorities such as the ERO. Upon completion of proceedings, the Antitrust Office may issue a decision prohibiting further performance of an anti-competitive agreement or practice or a decision prohibiting the continuance of abusive behavior.

The Antitrust Office is further empowered to impose fines or remedial measures. Fines against competition infringements can be much larger than the sanctions for violating sectoral regulations. However, the Antitrust Office has also the power to accept commitments proposed by the parties and to terminate an investigation without making a finding of liability.

To ensure the functioning of the market, the Antitrust Office has all the standard competencies as the competition authorities in the EU. The Office in particular guides the competitors to behave in compliance with the principles of competition law interferes with practices distorting competition, e.g. Cartel agreements, abuse of dominant position, etc., and authorizes certain concentration between competing undertakings. A con centration between competitors is a merger of two or more competitors previously operating independently in a market. However, a merger of competitors is also considered to be a situation where a person controlling one of the competitors acquires a new ability to control another competitor or part of it - in practice, this is, in particular, the acquisition of shares in companies that enable the competitor to control and influence the competitor.

The clearance procedure is initiated on the joint proposal of the merging competitors. If the Antitrust Office concludes that a particular concentration fulfills the conditions and is subject to clearance, it officially initiates the clearance procedure itself and assesses whether the concentration will not result in a significant distortion of competition. If it concludes that the concentration will not result in a significant distortion to competition, it will issue consent to the concentration within 30 days of the initiation of the proceedings. Otherwise, it shall continue the proceedings. In this case, the Antitrust Office is required to issue the decision itself within five months of the initiation of the proceedings. If the concentration is implemented without authorization, the Antitrust Office has the power to take measures to restore "effective competition." It can therefore impose an obligation on the undertakings concerned to sell their shares, transfer the undertaking or part of it, or cancel the contract on the basis of which the merger took place. In addition to the above, the Antitrust Office also has the power to impose a fine of up to

CZK 10 million or 10% of the competitor´s net turnover in the last financial year. The notified concentration cannot be implemented before the date on which the approval decision becomes final.

10. Stability Clause and Dispute Resolution

10.1 Stability clause

Czech law does not deal with the stability clause explicitly. The contractual arrangements depend in principle on the parties´ will with the exception of prohibition of conduct contrary to good morals and, in certain cases, to public order or binding to impossible performance.

10.2 Compulsory dispute resolution procedure

No compulsory dispute resolution procedures apply in the Czech Republic. In case a dispute in the oil and gas agreement arises, an arbitration clause is usually included in the agreement stating that if the dispute cannot be settled by the parties themselves, they would submit it to arbitration.

10.3 International treaty protection

The Czech Republic (or Czechoslovakia as a legal predecessor) has signed and duly ratified both the New York Convention on the Recognition and Enforcement of Foreign Arbitral Award and the Convention on the Settlement of Investment Disputes between States and Nationals of Other States. Besides, the commitments established under the Energy Charter, the trade agreements negotiated by the EU on behalf of the member states to regulate trade relations with third countries, and also the bilateral agreements negotiated by the Czech Republic apply. ■


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CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: OIL & GAS 2024

HUNGARY

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1. Summary

In Hungary, the extraction of hydrocarbons, including unconventional hydrocarbons, is subject to authorization by the Mining Supervisory Authority.

Since January 1, 2022, the Regulated Activities Supervisory Authority (SZTFH), has been carrying out the state's mining and geological tasks, as well as the mining supervision and state geological tasks previously the responsibility of government offices.

In Hungary, mineral resources and geothermal energy are state-owned in their natural places of occurrence.

According to Art. 3 (1) of the Mining Act, the mineral raw material extracted by the mining company becomes the property of the mining company upon extraction, and the geothermal energy extracted for energy purposes becomes the property of the mining company upon utilization.

According to Art. 20 (1) of the Mining Act, the state is entitled to a mining fee, based on the extracted mineral raw material and geothermal energy.

The most notable market player in Hungary both in the production and trading of oil is the state monopoly, Magyar Olaj- es Gazipari Nyrt. (MOL). MOL is a company established in Budapest, Hungary, which has as its core activities the exploration for, and production of oil and gas, the transportation, storage, and distribution of oil products at both retail and wholesale levels, the transmission of gas, and the production and sale of alkenes and polyolefins. The transport business within MOL operates 4,550 kilometers of 300-800 millimeters diameter gas pipelines and 900 kilometers of 200-600 millimeters diameter oil pipelines, including 900 gas transfer and hub stations and three compressor stations. FGSZ Zrt., a 100 percent subsidiary of MOL, is the only TSO in Hungary. FGSZ Zrt., as TSO, controls the Hungarian transmission pipelines.

The number of shares held directly by the Hungarian state in MOL decreased from 25.24% to 0% in recent years due to donations to some domestic funds.

In 2021, Hungary signed a new 15-year natural gas supply deal with Russia's state-controlled energy firm, Gazprom. Given the dependence of Hungary on Russian gas (see later), this contract is still crucial for the domestic energy sector.

The energy mix of Hungary is based on gas and oil; however, Hungary is poor in both of these resources. In 2020, Hungary adopted a net-zero emission target by 2050. This is part of a wider change in the country's energy and climate policies. Consequently, and also relying on similar EU targets, the energy mix of Hungary is expected to move towards renewable energy, and energy policy and law are expected to rather focus on sustainability and renewables in the forthcoming years.

After the break of the war in the Ukraine, Hungary started a process of becoming independent from Russian fossil resources. The production of solar power plants has been constantly rising, – although yet on a very limited basis – the construction of wind farms has become possible again, the most important refinery has been heavily refurbished, and new exploration fields – where exploration was uneconomical before – have been opened, the existing nuclear power plant is being refurbished and the construction of a new nuclear power plant has started.

2. Overview of The Country's Oil & Gas Sector

2.1. Legal framework – a brief outline of your jurisdiction's oil & gas sector

The primary legal basis of mineral extraction activity is Act No. XLVIII of 1993 on Mining (Mining Act). Important pieces of law for permitting procedures are Governmental Decree No. 203/1998. (XII.19.) (detailed permitting rules), Act XXXII of 2021 on the Surveillance Authority for Regulated Activities, Government Regulation No. 53/2012 on mining construction permitting, Government Regulation No. 314/2005 on EIA and IPPC, Act No. LIII of 1996 on nature conservation, Government Regulation No. 275/2004 on Natura 2000 sites, Government Regulation No. 312/2012 on construction permitting, SZTFH Decree 13/2022 (I. 28.) on mining waste management, Ministerial Decree No. 8/2014 (II. 18.) on the mining concession tender procedure, Act XVI

of 1991 on Concessions and Act CXCVI of 2011 on National Property. For permitting procedures, Act No. CL of 2016 on the General Public Administration Procedures is also highly important.

In Hungary, mining operators holding a hydrocarbon exploration license or an exploration right under a concession contract may only carry out their exploration activities based on an approved exploration technical operating plan.

A mining operator entitled to mine oil and gas may initiate the extension of the mining rights to underground storage of hydrocarbons based on the provisions of Article 5(2) of the Mining Act. The ownership of the state-owned hydrocarbons in the underground gas storage as a natural occurrence may, upon request, be acquired by the mining operator holding a gas storage operating license as defined in a separate act, prior to extraction, as provided for in Section 3(1) of the Mining Act.

In 2022, a significant share of domestic consumption was provided by imports of oil and oil derivatives and gas, totaling 731,2 terajoules net of imports. Dependence on imports increased by 12.1 percentage points to 63.8% since 2020.

Gas imports rely almost entirely on Russian gas, which comes to Hungary in pipelines. Regarding oil imports, the Friendship and the Adria pipelines play a heavy role. The Friendship – Druzhba – pipeline, which supplies Hungary from Russia, is the longest oil pipeline in the world. The pipeline starts in Samara in south-east Russia. Oil import – since oil is generally not that much reliant on pipeline infrastructure – is also heavy on roads, waterways, and rail.

In 2021, the Croatian interconnector has appreciated significantly, following the start of deliveries from the Krk (Croatia) LNG terminal at the beginning of 2022. From the current 2.9 billion cubic meters of transport and regasification capacity, up to one billion cubic meters of LNG per year could arrive in Hungary.

Hungary is a key market for natural gas trading since it is a hub between North and South, as well as, West and East.

2.2. Domestic oil & gas production and imports/exports

The domestic conventional oil production in 2021 was 1.382 million cubic meters, the non-conventional was less than 0,001. The amount of conventional oil as a geological asset in Hungary in 2022 was 277.392 million cubic meters, and out of that 31.518 million cubic meters was a recoverable asset. The amount of non-conventional oil as a geological asset in Hungary in 2022 was 537.11 million cubic meters, and out of that 58.516 million cubic meters was a recoverable asset. The domestic conventional gas production in 2021 was 1,688.4 million cubic meters, the non-conventional was 3.11 million cubic meters. The amount of conventional gas as a geological asset in Hungary in 2022 was 155,064.43 million cubic meters, and out of that 64,417.2 million cubic meters was a recoverable asset. The amount of non-conventional gas as a geological asset in Hungary in 2022 was 3,835,738.9 million cubic meters, and, out of that, 1,567,292 million cubic meters were recoverable assets.

Distribution of energy produced from basic energy sources in Hungary (2022): Gas takes 10% and oil takes 11% of the energy produced from basic energy sources. The portion of renewables in the energy mix has been constantly rising.

Hungary's dependence on energy imports was increasing in the last decade before 2017. 32% of the country's energy needs in that year came from domestic production and 68% from external markets. The import rate in 2017 was the highest in the past almost 30 years. It changed for a few years: the import decreased to 53.7% in 2021. Nonetheless, this downward trajectory was short-lived as the import dependency increased, reaching 63.8% by 2022. (This increase is primarily due to the significant build-up of gas stocks due to the war in the Ukraine.) Hungary is one of the moderately energy import-dependent countries in the EU.

2.3. Foreign investment and participation

No special requirements or limitations are prevailing in Hungary to this end. However, merger clearance rules are applicable to acquisitions, and also a ministry notification might be applicable for the acquisition of strategic infrastructure or companies (please see Section 9.3.).

2.4. Protection of investment

The Energy Charter Treaty provides a multilateral framework for energy cooperation that is unique under international law. It is designed to promote energy security through the operation of more open and competitive energy markets while respecting the principles of sustainable development and sovereignty over energy resources.

The Energy Charter Treaty was signed in December 1994 and entered into legal force in April 1998. Currently, there are 50 signatories and contracting parties to the treaty. This includes both the European Union and Euratom.

Furthermore, Hungary, as an EU member state, is subject to all secondary EU energy laws. These laws however dominantly regulate the gas and electricity sector and not the oil sector.

3. Exploration of Oil & Gas

3.1. Granting of oil & gas exploration rights

In Hungary, mining operators holding a hydrocarbon exploration license or an exploration right under a concession contract may only carry out their exploration activities on the basis of an approved exploration technical operating plan.

Once a concession contract has been concluded, the concession company established by the concessionaire, as the mining contractor, will have the exclusive right and obligation to carry out mining activities, the licenses for which will be issued by the Mining Supervisory Authority. The concession contract may be concluded for a maximum period of 35 years, which is renewable once for a maximum period of half the duration of the original concession contract. The extension of the concession contract must be initiated at least six months before its expiry.

3.2. Foreign exploration

The rules are predominantly the same for domestic or foreign companies. The authorization of hydrocarbon prospection, exploration and production, and hydrocarbon storage is subject to the following specific rules, in addition to the general rules set out in the Mining Act.

- According to Art. 22/A (8)-(9) of the Mining Act, in the case of hydrocarbons, the conclusion of the concession contract is conditional on the provision of a financial guarantee in the form of a bank guarantee of HUF 200 million per exploration block.
- According to Art. 14 (1) of the Mining Act, the exploration period for conventional hydrocarbons shall be a maximum of six years (the initial exploration period shall be a maximum of four years, which may be extended by up to half of the initial exploration period once); for unconventional hydrocarbons, the exploration period shall be a maximum of eight years, subject to the possibility of extending the initial period twice (4+2+2 years).
- According to Art. 22 (13) of the Mining Act, the mining operator must submit the final exploration report within five months of the end of the exploration period (previously 6 months).
- According to Art. 22/C of the Mining Act, following the establishment of a mining claim, the hydrocarbon fields must be re-explored within two years of the expiry of the tenth year after the mining claim was established, failure to do so will result in the penalty of a reduction in the area of the mining claim, and the areas thus released will be made available for concession again.
- According to Art. 22/A (13) of the Mining Act, In the case of hydrocarbons, the total area of exploration by mining operators may not exceed 20,000 square kilometers.

3.3. Stages of the exploration process

Through a concession contract, a concession is granted for a limited period of time for the prospecting, exploration, and extraction. The license covers all stages.

3.4. Obligatory state participation

Article 20 (1) of the Mining Act provides that the state is entitled to a mining fee for the extracted mineral resources and geothermal energy. The amount of the mining fee payment obligation is set out in Article 20 of the Mining Act and the frequency of self-declaration and payment of the mining fee is set out in Government Decree 203/1998 (XII. 19.) on the

implementation of the Mining Act (Vhr).

- The mining fee shall be determined as self-declaration in accordance with the provisions of Government Decree No. 54/2008 (III. 20.) on the determination of the unit value of mineral raw materials and geothermal energy and the method of value calculation (Decree). Pursuant to Article 4(5) of the Vhr, the obligations for oil and gas must be fulfilled on a monthly basis. A mining fee self-declaration shall be submitted even if no mining fee payment obligation has arisen during the relevant period.
- In the case of hydrocarbon mining, the amount of the mining fee is determined primarily by the date of production of the hydrocarbon field concerned and the amount of hydrocarbons extracted from the field. On this basis, the following categories are distinguished, in accordance with Article 20 (3) of the Mining Act:
- for oil and gas extracted from hydrocarbon fields put into operation before January 1, 2008, the mining fee is 16%,
- in the case of fields put into operation before January 1, 1998, the mining fee rate shall be calculated using the formula in accordance with Article 20 (3) b) of the Mining Act. If the fee rate calculated in this way is less than 12%, the mining fee rate shall be 12% on the basis of paragraph (3) b) bb),
- in the case of oil and gas extracted from hydrocarbon fields put into operation after January 1, 2008, the rate of the mining fee:
- 12%, if the volume of gas extracted from the hydrocarbon field does not exceed 300 million cubic meters per year or 50 kilotons per year in the case of oil,
- 20%, if the annual volume of gas extracted from the hydrocarbon field is more than 300 million cubic meters but not more than 500 million cubic meters or more than 50 kilotons but not more than 200 kilotons in the case of oil,
- 30%, if the annual production of gas from the hydrocarbon field is more than 500 million cubic meters or 200 kilotons in the case of oil,
- 12% for gas obtained from the involuntary replacement of gas from underground gas storage put into operation before July 1, 2007, and 12% for carbon dioxide gas,
- 2% for hydrocarbons of non-conventional origin and hydrocarbons that can be extracted by a special process, and 2% for the recovery of hydrocarbons from associated gas extracted with thermal water,
- a mining margin of 0% on the quantity of hydrocarbons extracted by means of increased-efficiency processes.

The level of the mining fee for hydrocarbons is influenced by the world market price of oil and gas. Pursuant to Article 20 (4) of the Mining Act, if the monthly average of the Brent oil price on the stock exchange reaches or exceeds USD 80/barrel, the mining fee for oil pursuant to Article 20 (3) a) and c) of the Mining Act is increased by 3-3 percentage points. If the monthly average of the quoted Brent oil price reaches or exceeds USD 90/barrel, the mining fee shall be increased by a further 3 percentage points. There are also special provisions for the gas fields put into operation before January 1, 1998, and for the gas fields put into operation after January 1, 1998.

3.5. Risks to be considered

If the mining operator carries out the mining activity in an irregular way, the Mining Supervisory Authority may impose a fine on the mining operator, suspend the continuation of the activity, revoke the permit, and order the restoration of the original condition or, if this is not possible, the reclamation of the landscape, or cancel the mining right of the mining operator, in which case paragraphs (6) to (7) of Article 26/A of the Mining Act shall also apply.

Pursuant to Article 41 (3) of the Mining Act, a mining operator who fails to comply with the statutory obligation to notify, self-declare, or pay the mining fee, or fails to do so, is deemed to be carrying out mining activities in an irregular way.

According to Article 41 (6) of the Mining Act, the fine may be imposed repeatedly. The maximum amount of the fine is HUF 10 million. If the defendant fails to remedy the unlawful situation on the basis of which the fine was imposed within

the time limit set or if the violation is repeated, the fine may be imposed repeatedly. The maximum amount of the repeated fine is HUF 30 million.

In order to recover the unpaid mining fee, the value of the unauthorizedly extracted mineral raw material, the fee, fine, and supervision fee imposed to make up for the loss of mining fee in the event of a cessation of extraction, as well as the interest on late payment, the Mining Supervisory Authority will contact the tax authority.

A mining contractor or a geological prospector shall compensate for damage caused by mining and geological prospecting activities to property, buildings, other parts of the property and appurtenances of property, and damages caused by water drainage, including expenses incurred for the prevention, mitigation, and remediation of damage.

Mining and exploration activities are deemed to be "hazardous activities" under private law and as such escaping liability for any damages caused to third persons in connection with mining and exploration is extremely limited and challenging.

4. Production of Oil & Gas

4.1. Granting of oil & gas production rights

According to Art. 3 (1) of the Mining Act, the mineral raw material extracted by the mining company becomes the property of the mining company upon extraction, and the geothermal energy extracted for energy purposes becomes the property of the mining company upon utilization.

The Regulated Activities Supervisory Authority (SZTFH) is responsible for carrying out the state's mining and geological tasks.

4.2. Foreign production

The rights to produce oil & gas are granted by concession (see in Section 3.2.). Concession agreements are governed by the provisions of Act XVI of 1991 on Concessions and the Mining Act. Based on the Mining Act, in principle, the areas subject to concession are publicly tendered by the ministry. The winning bidder(s) shall create a Hungarian entity for the activity subject to the concession agreement and shall maintain majority ownership and voting rights in this entity during the whole term of the concession agreement. Rights and obligations under the concession agreement shall be practiced/performed by the concession company. The winner(s) of the concession, as members of the concession company, shall undertake to perform all actions – including corporate actions – which are required to duly perform all obligations under the concession agreement.

Exploration and production rights under the concession agreement might exclusively be transferred or assigned based on the prior consent of the competent ministry. The consent might only be granted by the ministry if the transferee/assignee undertook to perform each obligation under the concession agreement and meets all former tendering criteria. If transfer or assignment is not possible in this way, a call for a new tender shall be published.

Concession agreements are subject to private law in issues not regulated by, or otherwise permitted by mandatory law.

The Concession Directive (Directive 2014/23/EU of the European Parliament and of the Council of February 26, 2014, on the award of concession contracts) is implemented in Hungary, the rules laid down therein are therefore applicable.

4.3. Stages of the production process

Through a concession contract, the government grants a concession for a limited period of time for prospecting, exploration, and extraction. The license covers all the stages. Since the concession holder has ownership over the mined product, export is usually not subject to special licensing.

4.4. Obligatory state participation

Please see Section 3.4.

4.5. Risks to be considered

Please see in Section 3.5.

5. Termination of Production of Oil & Gas

5.1. Abandonment and decommissioning

Abandonment or decommissioning of infrastructure used in oil & gas production shall be notified to the mining authority

together with the technical plan of closing the infrastructure and recultivating the area (where and to the degree it is possible). Pursuant to Section 42(2) of the Mining Act, the production area shall be abandoned in a condition that is not dangerous to either nature or the surface. Based on the Mining Act and its implementation decree, the technical plan – amongst others – should be supported with geological surveys prepared for the surface and the underground area, an environmental impact study, security measures for the protection of waters, a plan for the recultivation of land, a plan for the deconstruction of facilities, a plan for the prevention, remediation, and compensation of potential mine damages, a proposal for the utilization of the area for other purposes and required investments.

Based on Section12(4) of the Mining Act, the infrastructure created for production is owned by the concessionaire and shall be deconstructed at the termination of the concession agreement, as well we, the area shall be reinstated to its original condition (to the degree it is possible). The concession agreement might deviate from this rule.

5.2. Environmental and HSE consideration

Pursuant to Government Decree no. 314/2005 (XII.25.) both the starting and abandoning and/or decommissioning of oil & gas facilities require an environmental protection authorization from the competent authority of environmental protection. The detailed rules of the proceedings are also defined by this government decree.

6. Safety of Oil & Gas Exploration and Production

6.1. International treaties to which the jurisdiction is a party

Hungary as a landlocked country is usually not a party to offshore safety treaties.

6.2. Offshore Safety Directive

Hungary as a landlocked country has not implemented the OSD, however, it is a directly applicable secondary EU legislation.

7. Import, Export, and Sales of Oil & Gas

7.1. Import and Export of oil & gas

Export and import of gas products are usually carried out via pipelines. Bidding auctions are organized by the TSO for entry and exit capacities. The TSO shall grant access to entry and exit capacities in an indiscriminatory manner. However, participation at bidding auctions is subject to holding a license issued by the Hungarian Energy and Public Utility Regulatory Authority – in principle, a limited gas trading license – joining the clearing system, provision of financial security, and other conditions laid down in relevant laws and the general terms and conditions of the TSO and the clearing system operator. Subject to several other conditions laid down in Act XL of 2008 on Natural Gas (Natural Gas Act), transit of natural gas via Hungary might be carried out without holding a Hungarian gas trading license.

Oil is an excisable product, therefore cross-border sales or deliveries of oil might be subject to export and import licenses and a customs warehouse license.

The Hungarian Hydrocarbon Stockpiling Association was set out by Act No. XLIX of 1993 on the strategic stockpiling of imported crude oil and petroleum products (currently in effect as Act No. XXIII of 2013 on the strategic stockpiling of imported crude oil and petroleum products) in order to ensure the availability of sufficient volume of strategic crude oil stocks in Hungary in the event of a supply disruption. The association is responsible for the creation and maintenance of the level of strategic stocks laid down by the aforementioned act as well as providing for the necessary conditions.

7.2. Transportation

There is only one gas TSO in Hungary – FGSZ Zrt., which is a 100% subsidiary of the national oil company, MOL Nyrt. Pursuant to the Natural Gas Act – and except for several exceptions – the TSO must be the owner of the transmission pipeline it operates. The construction and operation of transmission pipelines are subject to a licensing obligation with the Hungarian Energy and Public Utility Regulatory Authority, a building permit, and a usage permit issued by the mining supervisory authority. Permits are subject to many special

authority consents (environment protection, catastrophe prevention, etc.).

Access to the transmission pipeline is granted in a non-discriminatory manner, however, access is usually subject to holding a license and the conclusion of a network use agreement with FGSZ Zrt., which establishes further criteria laid down in ancillary documents (the Business and Trading Code, the internal policy of the capacity booking platform, standard service agreement, as approved by Hungarian Energy and Public Utility Regulatory Authority from time to time).

7.3. Land rights

Usage rights and/or ownership rights over the track of the pipeline and the mandatory protection area shall be acquired. The state of Hungary has compulsory acquisition rights to land if the public interest is manifestly substantiated.

7.4. Access and integration

There is only one gas TSO in Hungary, FGSZ Zrt. Access to the transmission pipeline is granted in a non-discriminatory manner, however, access is subject to holding a license and the conclusion of a network use agreement with FGSZ Zrt., which establishes further criteria laid down in ancillary documents (the Business and Trading Code, the internal policy of the capacity booking platform, standard service agreement, as approved by Hungarian Energy and Public Utility Regulatory Authority from time to time).

7.5. Gas transmission and distribution

There is only one TSO in Hungary, FGSZ Zrt. The operation of a transmission network requires a license from the Hungarian Energy and Public Utility Regulatory Authority (subject to other authority consents). The TSO must have ownership of the transmission pipe(s) it operates pursuant to the Natural Gas Act.

The operation of a distribution network is also subject to a license issued by the Hungarian Energy and Public Utility Regulatory Authority. The operator must be the majority owner of the distribution pipeline it operates pursuant to the Natural Gas Act. The ratio of ownership shall be determined based on the book value of all assets operated by the distributor of natural gas.

A distribution line may be installed subject to the prescribed technical safety, financial, and economic conditions, in possession of the Hungarian Energy and Public Utility Regulatory Authority's operating license, in accordance with the legislation on proceedings of building authorities relating to special structures falling within the competence of the mining authority.

In addition, a DSO must also have the necessary metering equipment and means of data transmission, data processing, and IT systems in place with facilities to link up with the IT systems of system operators for the purpose of data communications, as well as bodies within its organization, or of the outsourcing contractor employed upon the consent of the Hungarian Energy and Public Utility Regulatory Authority, for the ongoing operation and supervision, and - within its organization - for the maintenance of these assets and an emergency response unit to eliminate any supply disruption, as well as a non-stop technical control unit within its organizational structure to communicate with the authorized operators of connected networks and with the network users. The in-depth technical and organizational requirements of DSOs are defined in specific legislation adjoining the Natural Gas Act.

The activities of DSOs for selling and buying natural gas for the purpose of corrective accounting and system balancing, and also for own consumption are not trading activities within the application of the Natural Gas Act.

Where a customer is supplied directly from the transmission line DSO functions shall be carried out by the TSO, including the operation of the supply line.

A distribution fee is payable for using the distribution pipeline and joining pipelines. It is either a flat fee or a base fee plus a usage fee depending on the nature and volume of usage. A joining fee is also payable. A joining fee might also be payable in case of capacity improvements. The principles of calculating the fees are determined in the decrees of the President of the Hungarian Energy and Public Utility Regulatory Authority (most recently decree no. 8/2020 (VIII.14.) of

the President of the Hungarian Energy and Public Utility Regulatory Authority) and the individual fees applied by DSOs – calculated based on the decree of the Hungarian Energy and Public Utility Regulatory Authority – are approved by the Hungarian Energy and Public Utility Regulatory Authority in authority orders.

8. Trading

8.1. Trading license

Gas trading In Hungary is subject to holding a trading license issued by the Hungarian Energy and Public Utility Regulatory Authority.

The most important pieces of Hungarian legislation to be considered for gas trade licensing are:

- the Natural Gas Act; and
- its implementing decree (Governmental decree no. 19/2009. (I. 30.) re. the implementation of the Natural Gas Act).

According to (Sections 28 and 114(1) points a) and e) and 114(3) of) the Natural Gas Act, trading in natural gas can only be carried out by authorized natural gas traders (i.e. in possession of in compliance with the appropriate license issued by the Hungarian Energy and Public Utility Regulatory Authority). (Section 28(3)-(6) of the) Natural Gas Act describes the "full scope" and the "restricted scope" licenses whereby the main difference is that restricted license holders are not authorized to supply natural gas to end-users, with the exceptions of certain transactions on the regulated natural gas market.

The provisions on natural gas suppliers shall also apply to restricted license holders, except Sections 28/A-31/C, Paragraph a) of Subsection (2) of Section 62, Subsection (1) of Section 63, and Section 113 of the Natural Gas Act. The restricted license holders shall be exempt from the provisions set out in Sections 122-123, too. These provisions relate to communication with users, customer service centers, special rules on customers, switching between supplier rules, universal services, standard business rules, and special licensing provisions re. corporate events (e.g., events like a merger, demerger, capital decrease, etc.), special reporting/licensing obligation re. acquisition of control, etc.

Restricted gas trading might be performed in Hungary via:

1. a passported license (for an entity legally registered in any Member State of the EU or any State that is a party to the Agreement on the EEA, and engaged in the supply of natural gas in the country where established); or
2. a domestic license (for an entity legally registered in Hungary).

Both the application and holding of a license are subject to other conditions (transparent ownership structure, other organizational rules, financial and technical capabilities) detailed in the Natural Gas Act and its implementing decree.

8.2. Products

Exchanges in Hungary mainly deal with MGP and spot products. Certain derivative products are also available. The most preferred exchanges are CEEGEX and HUDEX.

9. Competition

9.1. Authorities

The Hungarian Competition Authority (Gazdasagi Versenyhivatal) has competence over anti-competitive practices in the oil and gas sector. The principal criteria for establishing anticompetitive conduct (anticompetitive agreements or abuses of dominant position) are the same as for other sectors.

The Hungarian Energy and Public Utility Regulatory Authority also has special competence in the so-called 'significant market power proceedings' as regulated by (Sections 56-57) of the Natural Gas Act.

The Hungarian Energy and Public Utility Regulatory Authority and Competition Authority entered into a cooperation agreement in conducting their respective proceedings and to boost the effective detection of anticompetitive restraints.

9.2. Anti-competitive actions

Both the Competition Authority and the Hungarian Energy and Public Utility Regulatory Authority in their own proceedings have the traditional powers upon establishing a

breach of competition rules (establishment of a breach of law, ordering the undertakings to stop the conduct, imposing fines). Also, anticompetitive agreements are null and void from a private law perspective and private actions for damages are also available to third parties under the same rules, which are applicable to other sectors.

Merger clearance rules are also the same for the energy sector as for other sectors from a competition law aspect. The substantive test is established by Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices (Competition Act) and uses a mixture of the earlier SLC text with the SIEC text of the EUMR, of which both the legislator and the Competition Authority expects a more economic assessment: "The Competition Authority shall prohibit the concentration if, having regard to Subsection (2) [note by the author: to efficiency considerations] the concentration constitutes a significant impediment to competition in the relevant market, particularly in consequence of the creation or strengthening of a dominant position."

The time frame of merger clearance proceedings, based on type, is outlined below:

- Merger clearance (certificate to implement the merger) – deadline of eight days with no possibility of extension.
- Merger clearance (Phase I) – deadline of 30 days with no possibility of extension.
- Merger clearance (Phase II) – deadline of four months that might be extended by 20 days in case of initial Phase II proceedings or by two months if originally Phase I proceedings turn into Phase II proceedings.
- Competition supervision proceedings for non-filing (in case of mixed thresholds) – four months that might be extended by two months.

Pursuant to Sections 122 to 124 of the Natural Gas Act, mergers in the gas sector might also be subject to notification to or approval of the Hungarian Energy and Public Utility Regulatory Authority in certain cases. Such applications shall be made independently from the merger clearance application to the HCA. Also, the application/notification shall be decided based on different criteria than a competition law assessment (e.g., transparency of ownership, security of service provision, etc.).

The State of Hungary has pre-emption rights in some strategic gas facilities, as well as, special substantive rules regarding the acquisition or change of control in the liquidation proceedings of so-called undertakings of strategic importance are also applicable.

The Government of Hungary might grant immunity from antitrust merger clearance obligation in governmental decrees in case of so-called mergers of strategic importance. This immunity is of course not applicable to mergers of community dimension under the EUMR.

Act LVIII of 2020 prescribes additional notification obligation to the ministry liable for the internal economy in case of certain investments by a foreign investor made into strategic companies as defined by the act and its enforcement decree. Several oil and gas companies, mainly those that control critical infrastructure, qualify as strategic companies under the act. Consequently, certain acquisition in these companies by a foreign investor requires notification to and subsequent acknowledgment by the ministry. Any company registered in Hungary, the EU, or the EEA if their controlling owner is a citizen of or is incorporated in a country other than these areas; or any private individual being a citizen of, or an entity incorporated in a country other than Hungary, the EU, or the EEA shall amount to a foreign investor under the act. Missing the notification or completing the transaction despite the ban by the ministry, might trigger heavy administrative fines. Also, agreements, unilateral declarations, or corporate resolutions not complying with the provisions of the act shall be void.

10. Stability Clause and Dispute Resolution

10.1. Stability clause

No express stabilization clause is included in domestic oil and gas laws. It is underlined in this respect that Hungary is an OECD, WTO, and EU member state. Additionally, we note that the Act on Concessions discloses the possibility of the state to amend the terms of the concession agreement to the detriment of the concessionaire.

10.2. Compulsory dispute resolution procedure

In general, no compulsory dispute resolution procedures are applicable to the oil & gas sector.

10.3. International treaty protection

Hungary is a signatory to, and it has duly ratified both the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the ICSID. No special difficulties exist in Hungary in litigating or seeking to enforce judgments or awards, against government authorities or state organs. However – in a very limited scope – disputes are reserved for the exclusive jurisdiction of Hungarian courts or Hungarian arbitration courts in Section 17(3) of Act CXCVI on National Assets. (Pursuant to Section 17(3) of Act CXCVI on National Assets – in the lack of any provision of international treaties to the contrary – the entity holding the right of disposal over national assets located within the borders of Hungary shall exclusively stipulate the application of Hungarian law and the jurisdiction of Hungarian courts or Hungarian arbitration courts in a civil law contract.)

There have been many instances when domestic corporations under foreign ownership successfully obtained judgments against the Hungarian Energy and Public Utility Regulatory Authority, most notably in connection with setting prices by the Hungarian Energy and Public Utility Regulatory Authority and the Hungarian Energy and Public Utility Regulatory Authority decrees influencing access to critical infrastructure. ■


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CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: OIL & GAS 2024

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1. Summary

Lithuania has been a member of the European Union for 20 years, so the main regulation and legal framework is in line with the general nature and tendency of European Union regulation.

The Law on Energy Resources Market set the legal framework for the establishment of an energy resources exchange. By implementing of the Third Energy Package in the Lithuanian gas sector was accomplished in 2014 November. It was intended to split generation from transmission and, by breaking up the dominant vertically integrated monopoly, to create competition and increase transparency in the natural gas market. It was also intended to help create a functioning regional gas market in the Baltic States (info source: https://enmin.lrv.lt/en/sectoral-policy/natural-gas-sector/).

Lithuania remains an important gas hub for neighboring countries. In 2023, a total of 61.2 terawatt-hours of natural gas was transported through the Lithuanian gas transmission system. The Klaipeda LNG terminal, the main source of gas imports for Lithuania and the other Baltic countries accounted for 85% (31.9 terawatt-hours) of the total gas transported into the system in 2023 (info source: https://ambergrid.lt/en/for-media/news/lithuania-consumed-almost-15-twh-of-gas-in-2023/980).

The LNG delivered to the terminal is transported through Lithuanian transit pipelines, operated and maintained by the state-owned operator Ambergrid.

Following the connection of the first biomethane plant to the gas transmission system last year, 47-gigawatt-hours of green gas produced in Lithuania with guarantees of origin were injected into the system (info source: https://ambergrid.lt/en/for-media/news/lithuania-consumed-almost-15-twh-of-gas-in-2023/980).

2. Overview of The Country's Oil & Gas Sector

2.1. Legal Framework – A Brief Outline of Your Jurisdiction's Oil & Gas Sector

Lithuania has been a member of the European Union for 20 years and is fully subject to European Union regulation.

The main national legislation in this field is the Law on Petroleum Products and State Oil Reserves, the Law on Energy, the Law on Natural Gas, and the Law on Liquefied Natural Gas Terminal.

In May 2012, the Seimas adopted the Law on Energy Resources Market, which laid down the legal framework for the establishment of an energy resources exchange and regulates the platform for the trade of biofuels, petroleum product stocks, natural gas, and the use of instruments for hedging against energy price volatility (info source: https://enmin.lrv.lt/en/sectoral-policy/natural-gas-sector/).

There are no legal restrictions for oil & gas imports, except the restrictions on gas trade with Russia and Belarus.

2.2. Domestic Oil & Gas Production and Imports/Exports

In the wake of the energy crisis in Europe, the Lithuanian-operated LNG terminal Independence has become the LNG import infrastructure not only for Lithuania but also for the surrounding countries (Latvia, Poland), which is being used to its maximum capacity and has already been contracted to be fully loaded by 2033. The LNG delivered to the terminal is transported through Lithuanian transit pipelines, operated and maintained by the state-owned operator Ambergrid.

There are no or almost no indigenous resources in Lithuania and the corresponding production infrastructure has not been developed. Orlen Lietuva, a large refinery for imported crude oil, operates in the country.

2.3. Foreign Investment and Participation

The requirements for foreign investors are mainly related to compliance with national security interests and the scope of the planned activities.

The LNG terminal is currently being bought by the state itself and cannot be subject to privatization.

2.4. Protection Of Investment

The main international treaties Lithuania is a party to are the Energy Charter Treaty, the Protocol to the Energy Charter, and the Convention on the Settlement of Investment Disputes between States and other Natural and Legal Persons of the

European Union of March 18, 1965.

The relevant treaty obligations may be broadly applicable, but there are not many international cases to which Lithuania is a party in this sector.

3. Exploration of Oil & Gas

3.1. Granting of Oil & Gas Exploration Rights

The main legislation governing the potential exploration of oil and gas as a resource is the Law on Subsoil. It sets out the requirements for individuals conducting exploration.

The main authority issuing exploration permits is the Geological Survey under the Ministry of Environment, and tenders for permits are issued and organized by the government.

Significant deposits of shale gas resources have been reported recently but have not been extracted due to a lack of investment.

3.2. Foreign Exploration

The state is constitutionally considered the owner of all fossil resources. An entity, irrespective of who owns it as a legal person, acquires the right to extract and dispose of the resources in question by paying a tax to the state for each unit of resource. The amount of the tax shall be determined by the Law on Hydrocarbon Resources Tax.

Restrictions or limitations are set on an individual basis in relation to the rate of extraction and the potential environmental impact.

3.3. Stages of the Exploration Process

The first step is acquiring the right to carry out actions in the territory. If exploration is to take place on private land, the owner's consent is required. If it is carried out on public land, it must be coordinated with the state. In some cases, exploration and exploitation may be subject to a public tender. If tendering is envisaged, the government shall first carry out strategic environmental aessessment procedures for plans and programs.

Exploration of the earth's subsurface may only be carried out by an entity that has obtained a special permit from the Geological Survey to explore the earth's subsurface. An environmental impact assessment must be carried out prior to any exploration activities. The requirement for exploration does not apply if the resources in the area concerned have already been explored according to data published by the Geological Survey. In this case, the data can be used.

Once the exploration data has been approved, a plan for the use of the subsoil is prepared and agreed upon. Once the plan has been agreed, a special permit for the exploitation of the subsoil resources is issued.

3.4. Obligatory State Participation

If a site for exploration and exploitation is to be subject to tender, the government must first carry out a strategic environmental assessment of the plans and programs. State involvement takes the form of permits for formal public interest procedures and the collection of taxes, rather than direct interference in business activities.

All the geological information that has been collected historically is managed by the Lithuanian Geological Survey.

3.5. Risks To Be Considered

An important risk to be considered is dealing with local communities and the negative attitudes towards extraction.

4. Production of Oil & Gas

4.1. Granting Of Oil & Gas Production Rights

The State Energy Regulatory Council is the main executive authority for issuing permits and licenses and supervising and controlling these entities. Decisions on permits are taken in accordance with the orders of the Minister of Energy and the laws adopted by Parliament.

Current governmental and parliamentary initiatives involve a significant increase in excise duty, with the additional tax revenue being directed towards national security needs. There is an active public and business initiative, already registered in Parliament, to reduce petroleum fuel consumption by 41% by 2030 compared to 2023 consumption. The share of renewables in petroleum fuels is continuously increasing.

4.2. Foreign Production

Oil & gas resources are in fact scarce and practically untapped in Lithuania. There are only a few small-scale extraction sites that have been set up and are operated at State expense. However, as mentioned above, the State could seek to tender for the extraction of the resources on an equal footing, except in a few specific cases.

Trade and payment of taxes are carried out in the same way as for private domestic entities.

4.3. Stages of the Production Process

Individual phases are not to be distinguished during extraction. Additional requirements for accounting, declarations, etc. are provided. For all operations, the legitimacy of the operations and the use of raw materials and goods must be recorded in the license and permit issued.

4.4. Obligatory State Participation

The Hydrocarbon Resource Tax Law imposes an obligation on an entity to pay a tax to the state for the amount of resources extracted. The current tax rate is between 9% and 15% of the selling price per cubic meter of oil or gas.

The government sets VAT and excise tax for oil & gas production. There are no legal restrictions for oil & gas imports. Oil & gas prices are not regulated by the state, except gas supplied to common usage equipment.

The state is obliged by regulatory legislation not to trade gas with Russia and Belarus and to comply with international, European Union, and national sanctions.

4.5. Risks To Be Considered

The main risks related to the production of oil & gas in Lithuania are i) limitation of local processing capacity. In Lithuania, there is basically only one refinery, Orlen Lietuva; ii) there are no oil pipelines in Lithuania and transport is organized by mobile vehicles and trains.

5. Termination of Production of Oil & Gas

5.1. Abandonment and Decommissioning

Oil & gas exploitation is carried out in accordance with an agreed exploitation plan and a permit, which includes operating conditions. Failure to comply with them is subject to warning, sanctioning, and possible withdrawal of the permit.

The existing permit will be revoked if the permit has not been used for four years (non-commissioning), if a material breach is detected which is not corrected within two months, or if the resource is exhausted in the planned area.

5.2. Environmental and HSE Consideration

The authorities that are in charge of abandoning and/or decommissioning oil & gas facilities are the State Tax Inspectorate (on tax collection), the State Energy Regulatory Council (on compliance with legislation, including licenses), the Fire and Rescue Department (on fire safety), and the Geological Survey of Lithuania (on the conditions of the permit and on the implementation of the use plan).

6. Safety of Oil & Gas Exploration and Production

6.1. International Treaties to Which the Jurisdiction Is a Party

Lithuania is a party to all main international treaties in the field of safe exploration and production of oil & gas: Convention on Civil Liability for Oil Pollution Damage, 1992; Protocol to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992; International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992; Protocol to the Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1990. International Convention on Preparedness, Action, and Cooperation in the Event of Oil Pollution Incidents, (OPRC 1990); Protocol of 1992 to the International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC PROT 1992), etc.

6.2. Offshore Safety Directive

The Offshore Safety Directive has been transposed into the Law on Subsoil in substantially similar terms and wording

to the directive itself, with the competent authorities being assigned to perform and enforce the relevant control functions.

7. Import, Export, and Sales of Oil & Gas

7.1. Import and Export of Oil & Gas

Import and export of oil and gas are subject to the general European Union requirements and regulations. In recent years, restrictions under international, European Union, and national sanctions on state imports of gas of Russian origin started to be applicable.

7.2. Transportation

The installation of an off-site transport pipeline requires design work, including obtaining the consent of all owners of the land through which the pipeline will be laid, environmental impact assessments, establishment of buffer zones, and obtaining building permits. In Lithuania, private transport pipelines are exceptionally rare. All international pipelines are operated by the state-owned operator Ambergrid and are owned by the state.

7.3. Land Rights

These projects usually require the conclusion of agreements with landowners to establish easements and protection zones. If landowners do not agree, a court procedure might be required. For public authorities to be able to enforce easements and buffer zones, a project must be declared to be of national interest. In this case, decisions are taken by administrative acts, even without the landowner's consent or even in case of objections (fair compensation must be paid to the owner).

7.4. Access and Integration

The main pipeline in Lithuania supplies oil from the Butinge terminal to the refinery of Orlen Lietuva. There are more multi-directional pipelines. The newest one, built in 2021, is called GIPL, connecting Lithuania and Poland.

To use the gas pipeline network, an application is made to the operator and, once the conditions have been negotiated, a contract for the use is signed. Individual restrictions are linked to energy and trade sanctions imposed on neighboring countries.

7.5. Gas Transmission and Distribution

Lithuania's gas transmission and distribution network consists of approximately 2,000 kilometers of gas transmission pipelines and 8,300 kilometers of distribution grids (info source: https://enmin.lrv.lt/en/sectoral-policy/natural-gas-sector/).

Almost all gas networks are owned by the State in Lithuania. Ambergrid, a state-owned entity, has been appointed operator. No private operator is allowed. The use of the gas network is subject to an application to the operator and, once the terms and conditions have been agreed, a contract for the use is concluded.

Charges are regulated and set by the State Energy Regulatory Council every year. The fees are published on the website of the state operator "Ambergrid". It consists of the reservation and service fee, the intensity and amount of use, and the difference between the entry points and the exit points.

8. Trading

8.1. Trading License

Natural gas is traded on the Baltic Natural Gas Exchange GetBaltic. Trading on the exchange is subject to the State Energy Regulatory Council's authorization. LNG is traded both wholesale and retail under a license issued by the State Energy Regulatory Board.

8.2. Products

The natural gas stock market in Lithuania is divided into the following products: current day, day-ahead, near-future days, and monthly. The potential step change is the same for all of them: volume – more than 1 megawatt-hour; price step – EUR 0,01 per megawatt-hour. The intraday and day-ahead products are traded together with the capacity, the other products are not.

9. Competition

9.1. Authorities

The Competition Council is the general authority for the

protection of competition in the natural gas sector. The State Energy Regulatory Council is the specialized authority for energy issues. It assesses prohibited agreements, cartels, abuse of dominant position, concentration, etc.

9.2. Anti-Competitive Actions

Transaction control is limited to the application of sanctions, the determination of actual quantities, and taxation (excise duties, VAT). Transfers of assets, infrastructure management companies, etc. may be subject to controls if the objects are of significant size and their compliance is assessed in the interests of national security. Similarly, transfers of assets and legal entities may be prevented by the Competition Council if they threaten to infringe competition regulations, including possible concentration.

10. Stability Clause and Dispute Resolution

10.1. Stability Clause

N/A

10.2. Compulsory Dispute Resolution Procedure

Lithuania applies a compulsory dispute resolution procedure – if a complaint is lodged with the network operator (in case the transmission network is used), the dispute is then subject to a compulsory pre-litigation procedure before the State Energy Regulatory Council. Afterward, the dispute can move to a court of general jurisdiction.

10.3. International Treaty Protection

Lithuania has ratified both the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID).

No specific complications can be identified in litigating or seeking to enforce judgments or awards against government authorities or state organs, however, there are not many international cases in the sector. The most significant was the case of Lithuania v Gazprom in Stockholm arbitration which was lost by Lithuania. ■

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CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: OIL & GAS 2024

MOLDOVA

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1. Summary

In the last couple of years, Moldova went through fundamental changes in the energy sector, at almost all levels. For instance, in the last year, Moldova's supplies were diversified from Russia and imported from the EU and Ukraine. Energocom, a state-owned trader, sold gas covering almost the complete country demand to Moldovagaz, using an EBRD loan of EUR 300 million for gas supply and storage operations. On the other side, the decisions adopted by the Commission for Emergency Situations (CES) concerning the ban on issuing licenses for natural gas supply and trading were highly criticized by the business community.

The retail market is still highly regulated. Moldovagaz, which is the main supplier under public service obligation (PSO) for the supply of gas to all final consumers, must exercise this obligation until at least the end of 2026.

In terms of unbundling, ANRE provisionally designated Vestmoldtransgaz as an independent system operator (ISO) responsible for national gas transmission operation with effect from September 19, 2023.

Against this background, and in response to the 2021-2022 energy crisis, Moldova has taken significant steps towards diversification of the supplies and toward opening the market.

2. Overview of The Country's Oil & Gas Sector

2.1. Legal Framework – A Brief Outline of Your Jurisdiction's Oil & Gas Sector

The Moldovan law on oil & gas is in the process of transposition of the European Union legislation, in light of Moldova's obligations under the Moldova-EU Association Agreement; Moldova's obligations as a member of the Energy Community as well as Moldova's status of candidacy to membership of European Union.

The main principle applicable to the energy sector is free market accession which means that any player can enter on Moldova energy market, provided it complies with regulatory requirements. Besides that, the principle of separation of activities (supply, distribution, transportation, and trading) as well as the principle of cost efficiency in tariff approvals are also applicable.

Regarding recent trends, the Amendments to the Law on Energy, which transposes Regulation (EU) 347/2013 and partially Regulation (EU) 2022/869, were adopted in 2023. Moldova has increased its security of natural gas supply with the operationalization of the Ungheni - Chisinau pipeline, commissioned in October 2021. An interconnection agreement between Moldovatransgaz and the gas transmission system operator of Ukraine was concluded in line with the acquis. Vestmoldtransgaz was replaced in the interconnection agreement on September 18, 2023. This enables backhaul on the corridor. Along with the virtual trading point, this contributes to the development of the market in Moldova. Moldova and Ukraine are in a dialogue on how to promote regional security of gas supply.

2.2. Domestic Oil & Gas Production and Imports/Exports

Although, in Moldova, there are no producers of natural gas and the gas is not exported, the law regulates the production activity. Thus, according to Art. 19 of Law no.108/2016 on natural gas, the construction and operation of the production facilities is carried out only on the condition that the government assigns the right to use the underground sectors for the extraction of natural gas. Afterward, the beneficiary is obliged to obtain construction authorization from the local public administration authorities in accordance with the Law on the authorization of the execution of construction works.

In order to carry out the activity of natural gas production, the producer is obliged to obtain a natural gas production license issued by the ANRE. The producer participates in the natural gas market under the conditions established in the Natural Gas Market Rules and is obliged to comply with the provisions of the Connection Regulation, the Code of Natural Gas Networks, and other normative regulatory acts approved by the ANRE, including complying with the technical requirements of connection to natural gas networks and quality parameters of natural gas delivered to natural gas networks. The producer has the right to sell natural gas on the wholesale market of natural gas based on the license for the production of natural gas, and on the retail market of natural gas – on the condition of obtaining the license for the

supply of natural gas. The producer must be independent, from a legal point of view, of any enterprise that carries out the activity of transportation, distribution, or storage of natural gas. They cannot hold the license for the transport, distribution, or storage of natural gas.

According to Art. 20 of Law no.108/2016 on natural gas, the natural gas producer is obliged:

- to carry out its activity in accordance with this law, in compliance with the conditions of the license, the Code of Natural Gas Networks, and the Natural Gas Market Rules;
- to install and use measuring equipment that allows the measurement of natural gas delivered in natural gas networks;
- to operate and maintain the production facilities in such a way as to ensure their safe and continuous operation;
- comply with environmental protection requirements and promote energy efficiency;
- to comply with the Natural Gas Market Rules and not distort competition in the natural gas market;
- to equip, operate, maintain, and modernize the production facilities, increase their capacity, as well as related facilities used for the delivery of natural gas in the natural gas networks, under the conditions established in this chapter and in the normative documents approved by government;
- to provide the operator of the transmission system or the operator of the distribution system with the necessary data for the operation of the natural gas networks and for the management of the natural gas system;
- to grant access to the personnel of the operator of the transport system and the personnel of the operator of the distribution system to the equipment and to its production facilities, which are used for the measurement and delivery of natural gas in the natural gas networks;
- to ensure access to upstream natural gas networks;
- to submit reports to the ANRE regarding the activity carried out, as well as any other information requested in accordance with this law and according to the conditions of the license.

Although Gazprom remains the main supplier of natural gas in Moldova, in recent years, the State-owned entity Energocom has contracted a number of international gas traders, diversifying the portfolio of the gas suppliers to Moldova.

Regarding petroleum products, the petroleum business activity is governed by Law 461/2001 on the petroleum products market. The law does not contain provisions on the production of petroleum products. It governs only the import and sale of petrol, diesel, and liquefied gas.

In 2023, Moldova imported over 907.9 thousand tons of petroleum products in 2023 – 46.5 thousand tons (5.46%) more than the previous year. Gasoline purchases increased from 169.5 thousand tons to 184.2 thousand tons (+8.69%), diesel fuel – from 636.4 to 665.6 thousand tons (+4.58%), and liquefied gas – from 55.4 to 58 thousand tons (+4.71%). The main supplier remains Romania, which holds 96.8% of gasoline deliveries, 68% of diesel, and 54.2% of liquefied gas, although its share decreased by 3.2 percentage points, 16.4 percentage points, and 10.4 percentage points, respectively, in the last year. Moldova also imported petroleum products from Kazakhstan, Russia, Bulgaria, Italy, Israel, United Arab Emirates, India, Nigeria, France, USA, Algeria, Latvia, Greece and Croatia.

2.3. Foreign Investment and Participation

Generally, all foreign investments benefit from the same legal rights and obligations as national investors. Thus, according to Art. 6 of Law no.81/2004 on investments in entrepreneurial activities in the Republic of Moldova, investments cannot be subject to discrimination based on citizenship, domicile, residence, place of registration or activity, state of origin of the investor or the investment or for any other reason. Investors are granted fair and equal conditions of activity, which exclude the application of discriminatory measures that could prevent the management, operation, maintenance, use, fruition, acquisition, expansion, or disposal of investments. Any facility granted, in accordance with the legislation in force, including within the public-private partnership, to investors to contribute to the realization of the regional,

structural, environmental, research, and development policy promoted by the state or any facility granted to an investor for the promotion of its investments, which do not contravene the provisions of the international agreements to which the Republic of Moldova is a party, are respected and do not constitute an object of discrimination.

2.4. Protection Of Investment

The Republic of Moldova accessed the Energy Community by ratifying the Treaty establishing the Energy Community on May 1, 2010. Therefore, the regulatory policy and strategy in the energy sector, including in the oil and gas industry aims to align the local normative framework with the European Acquis Communautaire. One of the examples is adoption of Law 108/2016 on natural gas which aims to transpose Moldova's commitments to implement the Energy Package III.

In addition, on February 12, 1992, Moldova signed the 1991 European Energy Charter (not in force). On December 17, 1994, Moldova signed the 1994 Energy Charter Treaty (in force since April 16, 1998). And on May 20, 2015, Moldova signed the 2015 International Energy Charter (not in force).

3. Exploration of Oil & Gas

3.1. Granting of Oil & Gas Exploration Rights

According to Art. 6 of the Code of Subsoil, the assets of any nature of the subsoil of the Republic of Moldova, including the useful mineral substances it contains, as well as its underground spaces are the exclusive object of the public property of the state, are inalienable, inalienable and imprescriptible. Underground sectors cannot be alienated, they can only be given for use. All legal acts or actions that, directly or indirectly, violate the state's public ownership of the subsoil are struck by absolute nullity. The extracted mineral raw material belongs to the beneficiary of the underground with ownership rights, if the contract between the State and that party does not provide otherwise.

According to Art. 13 of the Code of Subsoil, the right of use over the underground sector is realized within the limits of the sector assigned to the beneficiary of the underground in the form of a mining or geological perimeter, according to the clauses provided by the contract. The right to extract useful mineral substances, including underground water and natural healing resources, gives the beneficiary of the underground the opportunity to carry out activities for a set period.

According to Art. 14 of the same code, the underground is allocated for use for:

- geological research, including prospecting, evaluation, and exploration of deposits of useful mineral substances and other types of geological research;
- extraction of useful mineral substances, including groundwater and natural healing resources;
- construction and operation of underground constructions unrelated to the extraction of useful mineral substances;
- burial (storage) of harmful substances and industrial waste;
- organization of protected geological objectives;
- collection of mineralogical, paleontological, and other geological collection materials.

According to Art. 15 of the Code of Subsoil, underground sectors are allocated for use for a limited (temporary use) or unlimited term. For an unlimited period, the underground sectors are attributed to the authorities of the central public administration, public institutions subordinated to them for the exploitation of underground constructions unrelated to the extraction of useful mineral substances, the burial (deposit) of harmful substances and industrial waste, the organization of protected geological objectives.

According to Art. 15(3) of the Code of Subsoil, in temporary use, basement sectors are allocated for:

1/1. geological research of the subsoil, construction of underground constructions unrelated to the extraction of useful mineral substances – for a term of up to five years;

1/2. extraction of useful mineral substances – during the exploitation of the deposit, according to the approved technical (technological) project documentation;

- underground water extraction – for a period of up to 25 years.

According to Art. 16 of the Code of Subsoil, the grounds for the right of use over the underground sectors are:

1. Government decision, adopted:

- as a result of the competition for the right to explore or extract useful mineral substances of national importance on a concession basis, according to the law on concessions;
- for the purpose of burying (depositing) harmful substances and industrial waste in the deep layers;
- in order to organize geological objectives of national importance, protected by the state;

2. the decision of the Ministry of the Environment regarding the transmission of underground sectors in use for the purpose of geological research, the extraction of useful mineral substances, the construction and/or exploitation of underground constructions unrelated to the extraction of useful mineral substances, as well as for other purposes;
3. transmission or transfer of the right of use over the basement sectors according to the provisions of the civil legislation regarding legal succession in case of reorganization of the legal entity;
4. establishment and confirmation of the fact of the discovery of the deposit of useful mineral substances by the beneficiary of the basement as a result of the works carried out on a competitive basis from the account of own financial means.

3.2. Foreign Exploration

- is applicable equally.

3.3. Stages of the Exploration Process

For the conclusion of a concession agreement the investor should meet the following requirements, in accordance with p.1 of Annex 1 to Governmental Decision cno.895/2016 regarding the concession of geological exploration works for hydrocarbons on the territory of the Republic of Moldova, with their subsequent exploitation:

- international experience in the execution of prospecting and evaluation works of natural gas and oil deposits – minimum 20 years;
- at least 15 years of technical experience and experience related to the exploration and development of hydrocarbons, including experience in carrying out 2D and 3D seismic operations, drilling and intervention on natural gas and oil wells, interpretation and processing of data related to exploration, production, transportation and commercialization of hydrocarbons produced on international markets;
- to have made investments of at least USD 50 million in natural gas and oil exploration and production projects in any country of the world, which would have included the implementation of drilling and intervention programs, exploration, production, transportation, and marketing of hydrocarbons produced on international markets;
- has specialized and sufficient managerial capacity for the development and implementation of the project, the hiring and training of the personnel involved in the implementation of the project;
- has advanced technologies, equipment, and techniques, specialized and sufficient human resources for the development and implementation of hydrocarbon exploration projects;
- has adequate and efficient systems for continuous monitoring of the risks related to the project;
- has management systems that will ensure the implementation of all necessary and possible measures in order to prevent the negative impact on the environment, the health of the community, and the waste of natural resources;
- to implement technical and organizational measures aimed at preventing the pollution of soil and surface and underground waters and the air basin with liquid and gaseous petroleum products.

As a concessionaire, any legal entities from the Republic of Moldova and foreign legal entities, that have been designated by the competition commission, can participate. Contest

participants can act directly or through representatives, mandated according to the legislation of the Republic of Moldova.

Following the conclusion of the concession agreement, the investing party must obtain the following permits:

- gas emissions authorization (issued by the Environmental ANRE; validity term: one to five years;
- construction authorizations for works of public utility of national interest (issued by the Ministry of Economy and Infrastructure of the Republic of Moldova; validity term: for the period of construction works; free of charge);
- sanitary authorization for the functioning of the facility (issued by the National Public Health ANRE; validity term: five years; free of charge).
- license for natural gas production issued by the ANRE issued for 25 years
- act on confirmation of geological limits (issued by ANRE for Geology and Natural Resources; validity term: five years; free of charge);
- state ecology expertise (issued by the Environmental ANRE; validity term: the period of project implementation; free of charge);
- environment permit, under certain conditions (resulting from the environmental impact assessment, issued by the Environmental ANRE; validity term: four years; free of charge);
- certificate on the protection of works of public utility and national interests (issued by the Ministry of Economy and Infrastructure of the Republic of Moldova; validity term: the period of construction works withholding; state fee: based on the activity and equipment complexity); and
- positive confirmation of expertise in the domain of industrial security (issued by an authorized expertise entity; validity term: five years; state fee: depends on the complexity of the activity, the equipment, etc.)

After the conclusion of the concession agreement, in accordance with p.8 of Annex 1 to Governmental Decision cno.895/2016 regarding the concession of geological exploration works for hydrocarbons on the territory of the Republic of Moldova, with their subsequent exploitation, the concessionaire, within up to 60 days after signing the contract, will found in the Republic of Moldova a commercial company, in one of the forms of organization regulated by the legislation of the Republic of Moldova, for the purpose of operating as a concessionary enterprise, with headquarters in the municipality Chisinau, which will take over the execution of the works that constitute the object of the concession.

The concessionaire is obliged to pay, throughout the duration of the concession contract, the fees, taxes, and all mandatory state and local payments. If the concessionaire does not pay the mandatory payments within the term established by the legislation, the concessionaire bears subsidiary liability. The social insurance of the concessionaire's employees is regulated by the legislation of the Republic of Moldova. The number of employees, citizens of the Republic of Moldova, must not be less than 60% of the total number of employees of the concession enterprise.

3.4. Obligatory State Participation

N/A

3.5. Risks To Be Considered

The potential investors should take into consideration the following anti-competitive requirements and requirements for fulfillment of the concession agreement, in order to avoid risks throughout the contractual performance. According to Art. 17 of the Code of Subsoil, the activities of the companies are considered illegal in case those activities are:

- limiting, contrary to the conditions of the contest, the access to participate in the contest of legal and natural persons who intend to obtain the right to use the basement in accordance with this code;
- evading the granting of the right of use over the basement sectors to the winners of the competition;
- discrimination of the beneficiaries of the basement when granting access to transport and infrastructure objectives.

The Ministry of the Environment develops, and the

Government approves, regulations regarding the limited quantity of reserves of useful mineral substances assigned to a company

In accordance with p.7 of Annex 1 to Governmental Decision cno.895/2016 regarding the concession of geological exploration works for hydrocarbons on the territory of the Republic of Moldova, with their subsequent exploitation, the concessionaire is not entitled to alienate, encumber, with any kind of rights or duties, or otherwise dispose of the object of the concession.

The concessionaire is obliged to register all assets resulting from the implementation of the concession project in the public registers as property of the state, for the duration of the concession contract. The concessionaire is obliged to bear all the expenses caused by the granting of the concession. The concessionaire is obliged to bear all the expenses deriving from the granting of the concession.

The concessionaire is obliged to ensure the ecological security of the established production unit and the protection of the environment during the concession period. The concessionaire, obligatorily and free of charge, must submit to the State Fund of information on the subsoil within the ANRE for Geology and Mineral Resources all the truthful geological information, with the respective annexes (maps, schemes, profiles, etc.) and the results of laboratory tests obtained in the process of hydrocarbon research works.

During the period of the concession contract, the concessionaire provides the concessionaire with the necessary support for obtaining licenses, all types of approvals and authorizations, issued by the central and/or local public authorities, as well as by other entities, under the conditions regulated by the legislation in force of the Republic of Moldova, and access to land owned by the state, necessary for the execution of concession works under the terms of the legislation and the concession contract. The concession of geological research works, including prospecting and evaluation of deposits of useful mineral substances of national importance, in order to detect accumulations of hydrocarbons (natural gas and oil), with their subsequent exploitation, is carried out within the limits of the provisions of the legislation of the Republic of Moldova.

In accordance with p.11 of Annex 1 to Governmental Decision cno.895/2016 regarding the concession of geological exploration works for hydrocarbons on the territory of the Republic of Moldova, with their subsequent exploitation, the concessionaire, annually, by April 30 of the period following the management year, presents to the grantor the financial statements for the management year and the auditor's report of the international audit company regarding the veracity of the financial statements of the concessionaire enterprises, including the report on the investments made. The audit company will be contracted directly only by the grantor, and payment for the services will be made from the sources of a fiduciary account that will be fully supplemented from the concessionaire's account for the payment of the audit company's services. The State authorities empowered with control function have the right to exercise control regarding the execution of the conditions of the concession contract by the concessionaire.

4. Production of Oil & Gas

4.1. Granting Of Oil & Gas Production Rights

N/A

4.2. Foreign Production

N/A

4.3. Stages of the Production Process

N/A

4.4. Obligatory State Participation

N/A

4.5. Risks To Be Considered

Please see 3.5. above.

5. Termination of Production of Oil & Gas

5.1. Abandonment and Decommissioning

In accordance with p.9 of Annex 1 to the Governmental Decision cno.895/2016 regarding the concession of geological exploration works for hydrocarbons on the territory of the

Republic of Moldova, with their subsequent exploitation, upon expiry of the concession contract, the concessionaire is obliged to:

- to return to the grantor, by deed, all the goods that were transmitted to the concessionaire under the concession contract;
- to transmit to the grantor all the geological and technical, design, and other documentation related to the object of the concession, the production and personnel registers, as well as other documents related to the object of the concession, according to international standards.

The concession contract is terminated before the deadline if the concessionaire does not comply with the obligations assumed by the contract and/or the concessionaire presents documents and information that are not true. The finding of non-compliance with the obligations is made at the grantor's request by the national courts. In this case, the concessionaire is obliged to compensate the concessionaire for any damages thus caused and to pay the penalties in the amount established by the concession contract, except and to the extent that the concessionaire does not show that the damage caused is not due to his fault.

In the event of the termination of the concession contract, the concessionaire transfers to the property of the grantor all the assets that were the object of the concession and those that appeared as a result of the investments made by him, as well as those that cannot be separated from the object of the concession, without causing him damage or diminishing from the utility and capacity of use of the object of the concession, according to its destination.

The concessionaire may unilaterally terminate the concession in the event of the disappearance of the object of the concession or the impossibility of exploiting it for reasons beyond his control. In such cases, the state is not obliged to pay compensation to the concessionaire, except in the case and to the extent that they are owed to the government. In this situation, the validity of the reasons invoked by the concessionaire will be verified by a commission established by the government of representatives of the public authorities concerned. Based on the commission's conclusions, it will be agreed on the continuation or termination of the contract.

5.2. Environmental and HSE Consideration

N/A

6. Safety of Oil & Gas Exploration and Production

- The 1994 Energy Charter Treaty, in force for Moldova since April 16, 1998
- The Treaty Establishing the Energy Community, in force for Moldova since May 1, 2010.

6.2. Offshore Safety Directive

N/A

7. Import, Export, and Sales of Oil & Gas

7.1. Import and Export of Oil & Gas

Regarding natural gas, all import and export transactions are performed only on the wholesale market. Thus, according to Art. 94 of Law 108/2016, natural gas sales-purchase transactions, including import or export transactions, sales-purchase transactions of related products, in which producers, transmission system operators, distribution system operators, storage facility operators, traders, and suppliers participate are carried out on the wholesale natural gas market. The wholesale market of natural gas is organized and operates in accordance with this chapter, with the Natural Gas Market Rules, and with other normative regulatory acts approved by the agency.

On the wholesale natural gas market, sales-purchase transactions are carried out based on bilateral contracts, which are formed taking into account demand and supply, as a result of competitive mechanisms or negotiations. Participants in the natural gas market have the right to engage in bilateral transactions, including bilateral transactions of export or import of natural gas, in compliance with the obligations established in this law and in the Rules of the natural gas market.

According to Art. 39(61) of Law 108/2016, the transmission system operator collaborates with transmission system operators in neighboring countries to ensure the

interoperability of natural gas transmission networks. The cross-border volumes of natural gas highlighted in the operational balancing account are not subject to customs formalities, being exempt from the payment of import or export duties.

The import of the oil product is performed by the entities licensed by ANRE in this respect. One exception to this requirement is the import of diesel products by agricultural producers on the basis of the diesel import authorization as fuel for machinery, transport, or agricultural machinery, used directly in agricultural activity.

7.2. Transportation

The pipelines for the transport of natural gas and petroleum products are regulated by Law no. 592/1995, on transportation through main pipelines. Transportation system operators must be certified as transmission system operators by the Energy Regulatory ANRE and obtain a natural gas transmission license. The license for the transportation of natural gas indicates the boundaries of the territory where the activity takes place. Certification requires companies to meet, in particular, the requirements for the unbundling and independence of the transportation system operator.

In addition, Art. 22 of Law 108/2016 regulates the status of the transportation operator in the gas sector. Thus, the transport of natural gas is carried out by the operator of the transport system based on the license for the transport of natural gas, issued by the agency in accordance with the law. When performing its functions and obligations, the transmission system operator is independent from any enterprise that carries out the activity of production, distribution, storage, trading, or supply of natural gas, as well as from any enterprise that controls the enterprises that carry out these activities, and cannot hold a license for the production of natural gas, a license for the distribution of natural gas, a license for the storage of natural gas, a license for the trading of natural gas or a license for the supply of natural gas,

In recent years Moldova has made progress with respect to the unbundling process. In September 2023, the ANRE approved a lease agreement between Moldovatransgaz, the previous transmission system operator, and Vestmoldtransgaz. Based on the lease agreement concluded for five years, Vestmoldtransgaz will operate the transmission networks owned by Moldovatransgaz and Moldovagaz. The certification process under the ISO model started on October 18, 2023, coinciding with the withdrawal of the transmission operation license of Moldovatransgaz. Vestmoldtransgaz started the operation of the entire Moldovan gas transmission system on September 19, 2023. Vestmoldtransgaz is owned by the Romanian transmission system operator Transgaz and the European Bank for Reconstruction and Development (EBRD), and certified under the ownership unbundling model. Moldovatransgaz on the other hand is owned by Moldovagaz.

7.3. Land Rights

According to Art. 5 of Law no. 592/ 1995, regarding the transport through main pipelines, pipeline transport enterprises, and organizations are assigned land with the right of use in their activity according to the legislation. These lands are state property. The lands assigned to them by the local public administration bodies for the construction, operation, maintenance, repair, reconstruction, improvement, and development of pipeline transport objects are considered lands of pipeline transport enterprises and organizations.

For the construction of objects of transport through pipelines, land qualified on the basis of the land cadastre as unsuitable for agriculture, or land with low creditworthiness and not forested, is allocated. In exceptional cases, by decision of the government, agricultural lands of higher quality can be allocated for the purposes shown.

The area of land allocated for the construction of objects of pipeline transport is established in accordance with the norms in force and the technical design documentation approved in the established manner, and the assignment of land is carried out taking into account the sequence of their exploitation by the builders.

The assignment of possession, use, and disposal of new lands to enterprises and pipeline transport organizations is carried out only on the condition that their alienation is legalized for

the indicated purposes and that the land previously exploited for these purposes is reintegrated into the agricultural rotation.

Art.74 of Law 108/2016 on natural gas contains similar provisions. It states that the lands that are publicly owned by the state or administrative-territorial units, necessary for the construction, operation, maintenance, rehabilitation, or modernization of the natural gas transport and distribution networks, are handed over to the system operators free of charge. The right of free use of the land during the exploitation of the natural gas networks, is established without the need to obtain the consent of the state or administrative-territorial units, the conclusion of any legal acts, or the fulfillment of other formalities. The right of use established pursuant to this article is exercised and is enforceable against third parties without the need to register it in the Real Estate Register.

The respective operators have the following rights:

- the right of use over the land for the execution of works necessary for the construction, rehabilitation, or modernization of natural gas networks;
- the right of use over the land to ensure the normal functioning of the natural gas networks by carrying out revisions, repairs, and other interventions necessary for the exploitation and maintenance of the natural gas networks;
- the easement of underground, surface, or aerial passage of the land for the construction of natural gas networks and/or for the execution of works at the location of natural gas networks on the occasion of the intervention for the purpose of rehabilitation and modernization or for carrying out repair works, revision or other operation and maintenance works, to remove the consequences of damage, as well as for access to their network location;
- the right to request the restriction or cessation of activities that would endanger the life and health of persons, assets, or certain activities;
- the right of access to the land where the natural gas networks are located.

7.4. Access and Integration

In 2023, ANRE adopted a transmission tariff methodology and the relevant tariffs in line with the Tariff Network Code, opting for interim balancing measures in line with the Balancing Network Code.

In terms of the gas law, Art. 55 of Law 108/2016 on natural gas provides that the system operator is obliged to grant access to the natural gas transmission and distribution networks to all existing or potential system users in a transparent, objective, and non-discriminatory manner.

Access to the natural gas transmission and distribution networks is granted based on the tariffs established in accordance with the methodologies for calculating the regulated tariffs for the natural gas transport service and for the natural gas distribution service, approved by the agency, published in the Official Gazette of the Republic of Moldova and applied to all system users in an objective and non-discriminatory manner.

The provisions of this law do not prevent the conclusion of interruptible, short-term contracts and long-term natural gas supply contracts, provided that they correspond to the principles and rules established in the normative acts that regulate competition.

In order to fulfill its functions, including those related to the cross-border transport of natural gas, the operator of the transmission system must cooperate with the operators of the transmission systems in neighboring countries in accordance with the agreements concluded with them.

In order to manage access to the natural gas transmission and distribution networks, the system operator is obliged to keep an electronic register in which to indicate, for each access point, identified by a specific number, all the data necessary to manage the access to network, including data on the identity of the final consumer, on the existing supplier, the address of the place of consumption, the contracted flow rate, the connection point, the delimitation point, the pressure at the delimitation point, the characteristics of the measuring equipment, as well as the mention of whether the respective place of consumption is connected or disconnected.

The data in the electronic register can be accessed by the respective final consumers or natural gas suppliers based on the written acceptance of the final consumer or based on the natural gas supply contract concluded between the final consumer and the natural gas supplier requesting access to the information from the electronic register.

7.5. Gas Transmission and Distribution

Companies operate natural gas distribution networks as operators of the distribution system under the natural gas distribution license issued by the ANRE. The license is issued for 25 years and costs MDL 3,250.

According to Art. 43 of Law 108/2016 on natural gas, the operator of the distribution system is organized as a natural gas company, specialized and independent, with the status of a legal person. In fulfilling its functions and obligations, the distribution system operator is independent of any enterprise that carries out the activity of production, transport, storage, trading, or supply of natural gas and cannot hold a license for the production of natural gas, a license for the transport natural gas, natural gas storage license, natural gas trading license or natural gas supply license, with the exceptions provided by the law.

According to Art. 44 of Law 108/2016 on natural gas, the operator of the distribution system that is part of an integrated natural gas enterprise must be independent, at least from a functional, decision-making point of view and of the legal form of organization, from other activities that are not related to the activity of distribution of natural gas. In order to ensure the independence of the distribution system operator, the following minimum conditions must be fulfilled:

- the persons with management functions of the distribution system operator should not be part of the structures of the vertically integrated natural gas company that is responsible, directly or indirectly, for the daily performance of the activity of production, transport, trading, or supply of natural gas;
- to take the appropriate measures to ensure that the professional interests of the persons with management positions of the distribution system operator are taken into account so that these persons have the opportunity to act independently;
- the operator of the distribution system has sufficient rights to make decisions, independently of the integrated natural gas enterprise, regarding the operation, maintenance, and development of the natural gas distribution networks. To fulfill these functions, the distribution system operator must have the necessary resources, including human, technical, physical, and financial resources.

According to Art. 46 of Law 108/2016, the functions and obligations of the distribution system operator, inter alia, are:

- to exploit, maintain, modernize, and develop natural gas distribution networks in safe, reliable, and efficient conditions, in compliance with the provisions aimed at ensuring environmental protection. When operating, maintaining, modernizing, and developing natural gas distribution networks, the distribution system operator must apply modern methods of energy efficiency management and/or demand management;
- to ensure the long-term capacity of the natural gas distribution networks to cover reasonable demands for natural gas distribution, elaborating and executing plans for the development of natural gas distribution networks, taking into account, in particular, the forecast of natural gas consumption natural gases;
- to manage natural gas flows from natural gas distribution networks;
- not to discriminate between system users or between categories of system users, avoiding, in particular, discrimination in favor of related enterprises;
- to present to operators of transmission systems, operators of distribution systems that operate natural gas networks interconnected with its network, and operators of storage facilities sufficient information to ensure the security and efficiency of operation, as well as the coordinated development and interoperability of natural gas networks and interconnected storage facilities;
- to conclude operating agreements in accordance with the normative regulatory acts approved by the ANRE;

- to present, in an intelligible, accessible, and quantifiable way, all the information necessary for system users for efficient access to the natural gas distribution networks and for the use of these networks, as well as the information regarding the services they provide and the relevant conditions applied;
- to respond to any service request within the terms and conditions established in this law, in the Code of Natural Gas Networks, in the Regulation on the development of natural gas distribution networks, in the Regulation on connection, in the Regulation on the measurement of natural gas for commercial purposes, in the Regulation on the quality of natural gas transport and distribution services, as well as in other normative regulatory acts approved by the ANRE;
- to undertake other necessary measures for the provision of the natural gas distribution service, including system services, as well as for the fulfillment of public service obligations under regulated, fair and non-discriminatory conditions for all system users, in accordance with the conditions stipulated in the license, with the provisions of this law, of the Regulation on the connection, of the Code of Natural Gas Networks, of the Regulation on the measurement of natural gas for commercial purposes, of the Regulation on the quality of natural gas transport and distribution services, of the Rules of the natural gas market, of other normative regulatory acts approved by the ANRE, respecting the principles of accessibility, availability, reliability, continuity, efficiency, quality and transparency;
- to comply, in the licensed activity, with the normative acts in the field of environmental protection, including construction norms, technical standards, and normative-technical documents, established by law, in order to reduce the impact of natural gas distribution networks on the environment.

8. Trading

8.1. Trading License

Moldovan law regulates the trading activity in the gas sector. According to Art.842 of Law 108/2016 on natural gas, the trader conducts his activity exclusively on the wholesale natural gas market, provided he holds the license for natural gas trading, in accordance with this law and the Rules of the natural gas market.

The trader is forbidden to engage in anti-competitive practices on the natural gas market and to prevent or attempt to prevent, illegally, the employment of other license holders or potential competitors in the activity of the trader, in compliance with the legal provisions regarding competition. If the trader also carries out other activities on the natural gas market, the trader is obliged to ensure accounting separation The trader is obliged to submit to the ANRE semi-annual reports on the activity carried out on the wholesale natural gas market, as well as other requested information, in the manner and terms established by the ANRE.

The trader is obliged to maintain the financial resources necessary to participate in the wholesale natural gas market. The trader cannot simultaneously hold the natural gas trading license and the natural gas supply license.

The license for gas trading activity is issued for 10 years and the fee for issuance of the license is MDL 3,250.

In order to obtain a license for natural gas trading, the applicant must meet the following conditions:

- to be registered in the Republic of Moldova and to present a confirmatory document in this sense;
- to present the financial situation for the previous year, in the case of the active legal entity, or extract from the bank account, in the case of starting the business;
- to dispose of the amount of MDL 1 million on the date on which the application for the issuance of the license is registered, as well as during the entire period of validity of the license, an amount for which, through confirmatory documents, provenance from one or more of the following sources:

- the amount available from bank credit lines that the applicant benefits from, according to the supporting financial documents in this regard;
- financial resources that the applicant's associates and/or shareholders make available to him through financing/loan contracts or through other types of contracts accompanied by supporting financial documents;
- available from the current account, proven with the applicant's bank account statement.

The persons applying for the license are to be positively approved by the Information and Security Service and the Money Laundering Prevention and Combating Service in terms of the risks related to state security, money laundering, and terrorist financing (the opinions are requested by the ANRE in the procedure for examining the declaration regarding issuance of licenses. During the approval process, the term of examination of the declaration regarding the issuance of licenses is suspended).

8.2. Products

There are no restrictions on trading petroleum products or natural gas.

9. Competition

9.1. Authorities

- Competition Council;
- National ANRE for Energy Regulation

9.2. Anti-Competitive Actions

The Competition Council is a responsible organ on competition-related matters and has the power to monitor anti-competitive actions. According to Art. 39 of Competition Law no.183/2012, the Competition Council has the following duties, inter alia:

- promotes competitive culture;
- elaborates the normative acts necessary for the implementation of competition legislation, advertising, and regulation of railway transport, as well as in the field of unfair commercial practices, within the limits of its powers;
- approves draft normative acts that may have an anti-competitive impact;
- notifies the competent bodies regarding the incompatibility of normative acts with competition legislation, advertising, and regulation of railway transport, as well as in the field of unfair commercial practices, within the limits of its powers;
- investigates anti-competitive practices, unfair competition, and other violations of competition legislation, within the limits of its powers;
- adopt decisions provided by law for cases of economic concentrations;
- authorize, monitor, and report state aid;
- submits actions to the court regarding the cases related to his attributions.

10. Stability Clause and Dispute Resolution

10.1. Stability Clause

Not regulated under Moldovan law.

10.2. Compulsory Dispute Resolution Procedure

In the gas sector, according to Arts. 109-111 of Law 108/2016 on natural gas, the ANRE is the extra-judicial body to examine the disputes concerning:

- Disputes, including cross-border disputes, over the refusal of the transmission system operator to grant access to natural gas transmission networks;
- Disagreements between natural gas companies regarding the application of the applicable law;
- Disagreements between consumers, system users, and natural gas suppliers concerning the application of the law, as well as between users and the closed distribution system operator.

If extra-judicial settlement of the dispute fails, then the dispute is settled in Moldovan courts according to general procedure, as provided by the Code of Civil Procedure.

In the oil sector, in accordance with Art.28 (4) of Law 461/2001 on the petroleum products market, the disputes between participants in the oil products market are examined

in competent courts.

In all sectors, disputes between any market participant and ANRE are settled according to the administrative procedure governed by the Administrative Code.

10.3. International Treaty Protection

Moldova ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, on July 10, 1998, and the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, on May 5, 2011.

In terms of international treaty protection of foreign investments, as mentioned above, Moldova is a signatory of the Energy Charter Treaty as well as a party to 40 Bilateral Investment Agreements.

Regarding recognition and enforcement of foreign arbitral awards, all final and binding arbitral awards are recognized in Moldova following recognition and granting of enforcement procedures, governed by arts. 475 – 476 of the Code of Civil Procedure. In Moldova there are two levels of jurisdictions in examining the requests for recognition and enforcement of foreign arbitral awards: a) Courts of Appeal; and b) the Supreme Court of Justice.

The grounds for refusal of recognition and enforcement of foreign arbitral awards under the Moldovan Code of Civil Procedure are quite similar to those indicated in Art. V of the New York Convention, namely:

Only if the party invokes such a ground:

- one of the parties to the arbitration agreement did not have full capacity to exercise or the arbitration agreement is not valid according to the law to which the parties have subordinated it or, in the absence of its establishment, according to the law of the country where the decision was pronounced; or
- the party against whom the decision is issued was not properly informed about the appointment of the arbitrator or about the arbitration procedure or, for other reasons, was not able to present its means of defense; or
- the decision was pronounced on a dispute that is not provided for by the arbitration agreement or that does not fall under the terms of the arbitration agreement, or the decision contains provisions on issues that exceed the limits of the arbitration agreement; or
- the establishment of the arbitral tribunal or the arbitral procedure did not correspond to the agreement of the parties or, in the absence of such an agreement, was not in accordance with the law of the country where the arbitration took place; or
- the arbitral decision has not become binding for the parties or has been abolished or its execution has been suspended by the court or by a competent authority of the country in which or according to the law of which it was pronounced.

Ex officio by the court:

- the subject matter of the dispute cannot be settled by arbitration according to the law of the Republic of Moldova; or
- the recognition or approval of the enforced execution of the arbitration decision is contrary to the public order of the Republic of Moldova. ■

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CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: OIL & GAS 2024

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1. Summary

North Macedonia has regulated the oil & gas market, hence for performing activities in the field of natural gas and oil, an entity shall obtain an energy license issued by the Regulatory Commission of Energy. North Macedonian legislation is mostly harmonized with the EU regulations. In June 2018, a new Law on Energy was adopted, thus harmonizing energy legislation with the Third Energy Package of the EU Energy Community was achieved. However, North Macedonia's soil is not rich in mineral resources, neither oil nor gas, hence the supply of these mineral resources is done through foreign import. The energy sector in Macedonia is still in the process of development, which includes further construction of an internal gas distribution network.

North Macedonia is ranked first in the region in terms of progress in meeting the energy reforms, according to the Energy Community's Sustainable Development Report 2020, which is dedicated to Western Balkans countries. According to the report, North Macedonia has the highest scores in the areas of energy efficiency, renewable energy sources, environmental protection, transparency, and investment conditions in the area of energy.

Currently, the most important investment in the energy field is the construction of an interconnecting gas pipeline between North Macedonia and Greece, which will provide additional quantities of natural gas. This investment is estimated at EUR 50 million, of which EUR 10 million is a grant from the Investment Framework for the Western Balkans.

Additionally, a gas pipeline connection with Kosovo is in the planning phase, and with these two projects, North Macedonia will be a transit country with natural gas. Another important project is the construction of the secondary gas pipeline network, in 10 towns in North Macedonia, which will reach households.

2. Overview of The Country's Oil & Gas Sector

2.1. Legal Framework – A Brief Outline of Your Jurisdiction's Oil & Gas Sector

The oil & gas market in the Republic of North Macedonia is regulated by the following laws: Mineral resources law, Law on concession and Private Public Partnership, Energy law, Petroleum reserves law, Mandatory oil reserve law, Trade law, Law on Protection of Competition, Customs Law, VAT Law, Law on excise duties, and Law on Market Inspection. In addition to these laws, the oil & gas market is also regulated by the Regulation on the Quality of Liquid Fuels, technical regulations (storage and transportation of oil derivatives, standards, etc.), as well as by ratified international agreements: the Stabilization and Association Agreement with EU, the Energy Charter Treaty and the Treaty on the Establishment of the Energy Community. Also, the relations in this market are affected by our country's accession to the World Trade Organization.

2.1.1. Oil & Gas Exploration and Reserves

The Mineral resources law recognizes the mineral resources as goods of general interest, which are property of the Republic of North Macedonia, regardless of the ownership of the land on which they are located.

According to the law, oil & gas are recognized as energy minerals, namely: all types of fossil coals, carbons in solid, liquid, and gaseous state, radioactive elements (uranium and thorium), all types of bituminous and oil shale, petrothermal energy and other gases found in the ground.

The law further prescribes the activities of public interest such as (i) performing detailed geological research and exploitation of energy raw materials and (ii) when the exploitation of the mineral raw material is of strategic importance and is necessary for the realization of projects of public interest determined by another law.

In order to achieve the goals and guidelines for the coordinated performance of geological research, the exploitation and sustainable use of mineral resources, the Government of the Republic of North Macedonia on the proposal of the Minister of Economy adopts a strategy for geological research, sustainable exploitation and exploitation of mineral resources (hereinafter: the strategy) for a period of 20 years. The strategy determines the scope and method of realization of geological research, the sustainable utilization,

and the needs for the exploitation of mineral resources which are of essential importance for the development of the economy of the Republic of North Macedonia. According to the available data, a new strategy for the period 2025-2045 is in the process of enacting.

The Mineral resources law recognizes the exploration of mineral resources as geological surveys which include prospecting geological surveys, scientific geological surveys, and detailed geological surveys. Prospecting and Detailed geological surveys are for commercial purposes, while scientific geological research can be done by legal entities from the field of geological sciences for the needs of implementation of scientific projects.

2.1.2. Oil & Gas Production (Royalty/Production Sharing)

The Energy Law does not consider the production of oil and natural gas as an energy activity for which an energy license is required, however, the production of oil derivates represents an energy activity that requires a license issued by the Regulatory Commission for energy in North Macedonia. Hence, foreign entities can perform the production of oil derivates, by registering a branch office or subsidiary in North Macedonia and obtaining the license through the same.

2.1.3. Import and Export of oil & gas, Including LNG and Export facilities

Pursuant to the Energy law, the export and import of oil & gas are not recognized as energy activity, however, the oil trade, gas supply, and distribution of gas are prescribed as energy activities that require license. As mentioned before, the license is issued by the Regulatory Commission for energy in North Macedonia, upon request.

The oil & gas market regarding import in North Macedonia is fully liberalized, except for certain countries for which the government has adopted restrictive measures for banning the import of oil & gas. The prices for oil, oil derivates, and gas are determined by the Regulatory Commission of Energy in North Macedonia with the decision which enters into force within its publication in the Official Gazette of North Macedonia. Usually, the Regulatory Commission adopts these decisions every two weeks. Additionally, according to the Excise law, the importer of oil or natural gas shall pay excise to North Macedonia. Consequently, the price for oil and oil derivates is formed, so that, on the net price of oil or gas, the amount of customs duty, excise, and then the VAT is added. According to the Energy law's bylaw, the price for oil derivates and certain fuels is determined according to an already prescribed mathematical formula.

2.1.4. Oil & Gas Pipeline Transportation and Distribution/ Transmission Network

According to the Energy law, the transport of crude oil through an oil pipeline is recognized as an energy activity which requires a license.

2.1.5. Oil & Gas Storage

According to the Energy law, the wholesale trader in fuels should own or have the right to use the storage premises for crude oil, oil derivatives, biofuels, bioliquids, and/or fuels for transport. The wholesale trader in fuels shall be obliged to hold operational reserves in oil derivatives and fuels for transport.

Pursuant to the bylaw Rulebook on the conditions for recording the quantities and the necessary capacity of crude oil, oil derivatives, biofuel or transportation facilities storage facilities, a storage facility for crude oil, oil derivatives, biofuels or fuels for transportation (storage) should have a tank with a minimum volume of:

1. 100 cubic meters for biofuel,
2. 100 cubic meters for fuels type 1 (GM-1) for jet engines,
3. 200 cubic meters for liquid petroleum gas (LPG), and
4. 500 cubic meters per derivative for other derivatives and fuels for transportation.

The warehouse shall be fenced and secured with an entrance and exit that is not connected to a gas station. In the case of the existence of several warehouses for storage in different locations of one merchant, at least one of the storage from these warehouses should satisfy the minimum volume referred to above.

Pursuant to the Petroleum reserves law, a "trading company –

warehouse" is a trading company that owns at least one of the listed licenses for performing energy activities: (i) processing of crude oil and production of oil derivatives, (ii) production of fuels intended for transport with mixing of oil derivatives and biofuels and (iii) wholesale trade in crude oil, oil derivatives, biofuels and fuels for transport, which at the same time holds an excise permit in accordance with the Law on Excises and with which the Agency for Mandatory Petroleum Reserves has concluded a contract in accordance with this law.

Regarding the storage of natural gas, North Macedonia has not regulated that matter yet.

2.2. Domestic Oil & Gas Production and Imports/Exports

Relevant regulations for this matter are the Energy law and Mineral resources law and their bylaws. However, North Macedonia doesn't produce domestic oil or gas, hence, the supply of oil & gas in our country depends on the import.

Regarding the import/export ratio of oil & gas, according to the available data from 2022 by the State Statistical Office's News Release – Energy Balances 2022 – preliminary data No: 6.1.23.60 from October 20, 2023, the following data is available:

Total Petroleum Products:

- Imports: 1,349.051
- Exports: 133.773

LPG

- Imports: 67.689
- Exports: 1.793

Motor Spirits:

- Imports: 103.116
- Exports: 6.927

Kerosene/Jet Fuel:

- Imports: 51.423
- Exports: 25.175

Road Diesel:

- Imports: 717.461
- Exports: 71.435

Heating and Other Gasoil:

- Imports: 28.389
- Exports: 0

Residual Fuel Oil:

- Imports: 210.57
- Exports: 2.8

Petroleum Coke:

- Imports: 122.875
- Exports: 17.149

Other Petroleum Products:

- Imports: 47.52
- Exports: 8.493

Natural Gas:

- Imports: 287,792.404
- Exports: 0

(all statistical data stated is represented in thousands of tonnes)

Regarding our jurisdiction's energy requirements, our legal framework covers all the aspects related to oil & gas, however, in practice Macedonian infrastructure for oil & gas is not fully developed.

North Macedonia only imports oil which is done through OKTA AD Skopje as the only Macedonian refinery, which was set up in 1982 by the North Macedonian government. In July 1999, the state sold a majority stake in the company to EL.P.ET Balkaniki SA, a subsidiary of the Greece-based Hellenic Petroleum SA.

OKTA has a production capacity of 2.5 million tonnes per annum and a storage capacity of 330,000 cubic meters. The refinery supplies the local and Kosovo's market, as well. For its purpose, OKTA is using crude oil through the Thessaloniki

– Skopje pipeline, which was launched in July 2002. The plant produces gasoline, diesel fuel, oil, and LPG in smaller quantities. Apart from its primary activity, the company has developed its own retail chain, which consists of about 30 rebranded gas filling stations, nationwide.

In the context of gas, currently, North Macedonia is supplied with gas from Russia through the TurkStream gas being imported through the pipeline from Bulgaria. One of the most important projects involving gas in North Macedonia is the agreement with the Greek company – Gastrade SA, which will lead to the opening of a second route for LNG supplies to the country. The cross-border natural gas interconnector between North Macedonia and Greece is still in the phase of construction.

2.3. Foreign Investment and Participation

North Macedonia does not impose restrictions on foreign companies in relation to performing energy activities in Macedonia, except for the obligation to establish a branch office or subsidiary in order to obtain the license.

2.4. Protection Of Investment

Besides the local legal framework, the main international agreements which Macedonia has ratified are:

- The Stabilization and Association Agreement with the EU (SAA), which the Republic of North Macedonia ratified on April 13, 2001, and which entered into force on April 1, 2004. Although SAA entered into force in 2004, the parts regulating trade and trade issues entered into force on June 1, 2001, by a special Interim Agreement on Trade and Trade-related Issues between the Republic of Macedonia and the European Community.
- The Energy Charter Treaty, which was ratified in North Macedonia on April 2, 1998;
- The Energy Community Treaty, which was ratified in North Macedonia on May 12, 2006;
- Convention on Climate Change 2015 (Paris Agreement);

Also, the relations in the oil & gas market are affected by our country's accession to the World Trade Organization.

Additionally, the relevant domicile laws regulating oil & gas are aligned with most of the EU directives, as follows:

The Energy law, which was adopted in 2018, and amended in 2019, and 2022, is in accordance with the Decision of the Ministerial Council of the Energy Community No. O/2011/02/MS-EnC and the following directives are transposed:

- Directive 2009/72/EC concerning common rules for the internal market in electricity;
- Regulation 714/2009 on conditions for access to the network for cross-border exchanges in electricity;
- Directive 2009/73/EC concerning common rules for the internal market in natural gas;
- Regulation 715/2009 on conditions for access to the natural gas transmission networks;
- Directive 2005/89/EC concerning measures to safeguard the security of electricity supply and infrastructure investment;
- Directive 2004/67/EC concerning measures to safeguard the security of natural gas supply;
- Directive 2009/28/EC on the promotion of the use of energy from renewable sources; and
- Regulation 543/2013 on submission and publication of data in electricity markets.

The Mandatory oil reserve law which was amended in 2021 with the amendment that complies with the Commission's Implementing Directive (EU) 2018/1581 of October 19, 2018, amending Council Directive 2009/119/EC on the methods for calculating reserve obligations.

Additionally, the Mineral resources law adopted in 2012, with the amendment in 2022 complies with Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, CELEX number 32006L0123.

North Macedonia has mostly harmonized its legislation with the EU, considering that North Macedonia was granted candidate status for EU membership in December 2005,

and in 2020, the European Council endorsed the decision to open accession negotiations with North Macedonia. After the Council approved the Negotiating Framework, in accordance with the revised enlargement methodology, on 19 July 2022 the EU started the opening phase of the accession negotiations with North Macedonia. In December 2023, the country completed the screening process.

3. Exploration of Oil & Gas

3.1. Granting of Oil & Gas Exploration Rights

As mentioned above there are three types of exploration according to the Law on mineral resources. Prospective geological surveys are carried out to determine potential spaces for performing detailed geological surveys. Prospective geological surveys can be carried out on the whole territory of the Republic of North Macedonia, except for areas for which the procedure for awarding concessions for detailed geological surveys is being conducted, for already allocated areas under concessions for carrying out detailed geological surveys, explored areas and concessions for the exploitation of mineral resources.

The right to perform prospecting geological research is acquired by obtaining a prospecting geological concession research, which is awarded by the government of North Macedonia based on a public call with an electronic auction.

Concession for prospecting geological research can receive any legal entity, including foreign legal entities with a subsidiary registered in North Macedonia. The concession can be granted for 2 years, without the possibility of an extension of validity.

After issuing the decision granting a concession for prospecting geological research, the concessioner and the grantor shall conclude an agreement.

Detailed geological surveys are carried out in the area where are established the existence of one or more mineral resources for the purpose of obtaining data on the position, shape, origin, quality of the deposit, reserves, conditions, and opportunities for their usage, the space on which will be built facilities for the purpose of determining the geotechnical, hydrogeological and other properties of the soil, for the recategorization of reserves, expansion of concessions for carrying out detailed geological research and exploitation of mineral resources, as well as for the purpose re-injection of water into the underground.

Detailed geological surveys of mineral resources shall not be carried out in areas located in populated areas, public roads, water facilities, riverbeds and banks of surface water bodies (rivers, lakes, and reservoirs), military objects, monuments of culture and protected areas of nature, as well as in other spaces where objects of public interest are located, without prior consent of the bodies of the state administration competent for the affairs of the respective area.

Similar to the prospecting geological research, for performing detailed surveys, the entity should be granted with concession by the Government of North Macedonia. The foreign entity that has established a branch office or subsidiary in North Macedonia has the right to be granted the concession same as the other local entities. For energy mineral resources the concession shall be granted for 6 years.

Based on the decision to grant the concession for detailed geological surveys of mineral resources, the grantor and the concessionaire conclude a concession agreement for detailed geological research.

The concession for the exploitation of mineral resources is assigned based on public call (for private entities) and based on request (for public entities) under conditions determined by the Law on mineral resources and the Law on concessions and public-private partnership.

The deadline for submitting bids shall be at least 30 days from the date of publishing of the public call for awarding a concession of goods of general interest in the Official Gazette of the Republic of North Macedonia.

The deadline for deciding on the most favorable bid starts with the day of expiry of the deadline for submission of the bid. If not otherwise specified in the tender documentation, the deadline to reach a decision on the selection of the most favorable bid shall be 30 days. After the decision on the selection of the most favorable bid becomes lawful, the

contract for the concession of goods of general interest can be signed.

The concession for the exploitation of mineral resources is granted for a period of up to 30 years, depending on the determined reserves of mineral resources given in the report from the performed geological surveys, with the possibility of extension for a period of 30 years.

Additionally, for the exploitation of the mineral resources besides the concession, the concessionaire should also possess a permit for the exploitation of mineral resources. The exploitation permits are issued by the Ministry of Economy, with a validity period that cannot be longer than the validity period of the exploitation concession. An exploitation permit is issued for the same type of mineral resources for which the exploitation concession was granted.

The concessioner is obliged to submit a request for issuing a permit for the exploitation of mineral resources within four years of obtaining the concession for energy minerals which includes oil & gas. Along with the request, the concessioner should submit the following documents:

- proof of resolved property relations in the part of the land on which the exploitation of mineral resources will be carried out, except in the case of underground exploitation in conditions where the exploitation has no influence on the surface;
- geodetic report for special purposes with cadastral indications made by sole traders - authorized surveyors and trade companies for geodetic works that meet the requirements of the Law on Real Estate Cadastre;
- the main mining project for the exploitation of the mineral resources that are subject to the concession together with an audit (expert) assessment of the same;
- a decision to approve the environmental impact assessment study or a decision to approve the environmental impact assessment report;
- waste management plan;
- confirmation of a financial guarantee to cover the costs of eliminating harmful effects on the environment, in accordance with the law;
- traffic consent for connection to a public road;
- water use permit and/or water discharge permit issued by the competent body of the state administration responsible for water management, if the issuance of such a permit is required, which is determined by the competent body of the state administration responsible for water management; and
- proof of measurement of the exploited and sold quantity of mineral raw materials.

The Ministry of Economy is obliged to issue the exploitation permit within 30 days, counted from the day of receipt of the request for the issuance of the exploitation permit.

The permit for the exploitation of mineral resources ceases to be valid with:

- termination of the validity of the exploitation concession;
- cessation of the functionality of the operating facilities for which it was issued;
- expiration of the validity period of the exploitation permit.

After issuance of the permit, the concessionaire is obligated to begin the exploitation of the mineral resources within 3 years.

The only current initiative in gas and oil development is the interconnecting pipeline for natural gas between North Macedonia and Greece, which is under construction.

3.2. Foreign Exploration

The foreign entity can be granted the same rights as the domestic entities i.e., concession, and license for exploration, but only through a branch office or subsidiary established in North Macedonia. Consequently, the branch office can obtain licenses, concessions, service contracts, and contractual rights under PSA.

For the disposal of the oil or gas exploration rights the holder of the concession for detailed exploration, can transfer the ownership of the results of the performed detailed geological surveys to another person for which they conclude an agreement that must be certified by a notary. The entity which has done the transfer shall notify the Ministry of Economy.

Additionally, the transfer of shares to the entity that performed the detailed geological surveys and submitted a request for granting a concession for exploitation, as well as for the concessionaire who has been granted a concession for the exploitation of mineral resources that individually or in total would lead to a change of the management package in the company, as well as the transfer of shares or shares which individually or collectively would lead to a change in the management package of the trading company that is the founder of the concessionaire, but also of the natural person who is the owner and owns a corresponding share in the company, who directly or indirectly appears as the founder or owner of the concessionaire shall be done after written consent of the grantor (the government) is given.

Please also see Section 3.1.

3.3. Stages of the Exploration Process

Please see Section 3.1.

3.4. Obligatory State Participation

The state can benefit from the fees that the concessionaire who performs mineral exploitation of raw materials is obliged to pay.

According to the Law on concession and PPP, the concessionaire has the obligation to pay a concession fee to the grantor or the public partner, the minimum amount of the fee is determined in the contract award announcement, and based on the feasibility study for the justification of the award of the concession of goods of general interest or the contract for the establishment of a public-private partnership.

Also, in the tender documentation, the grantor could decide to determine that the concessionaire should pay a certain percentage of the realized profit to the grantor.

Specifically, according to the Mineral resources law, the concessionaire for the exploitation of mineral resources is obligated to pay the following fees:

- An annual fee for using the space allocated by the concession for exploitation, and depending on the type of mineral raw material that is the subject of the concession for exploitation; and
- compensation for the exploited amount of mineral raw material, subject to the concession.

The concession fee for the granted concession for the exploitation of mineral resources, the concessionaire is obliged to pay for each year separately, no later than December 31 of the current year. The amount is pre-determined by the tariff adopted by the government.

Regarding the data during the exploitation process: (i) a geodetic survey and (ii) a geodetic report with a calculation of the unearthed quantities of mineral resources shall be submitted to the Ministry of Economy and the State Inspectorate for Technical Inspection.

The concessionaire who exploits the mineral resources is obliged once a year in the period from September 15 to December 15 of the current year to carry out a geodetic survey and prepare a geodetic report with a calculation of the unearthed quantities of mineral resources, which will precisely define the quantities of the unearthed amount of mineral resources and the period in which it was carried out, and by January 31 of the current year to submit the geodetic report for the previous year to the Ministry of Economy and the State Inspectorate for Technical Inspection, as well as for the mines that carry out underground exploitation.

Due to the correct performance of detailed geological surveys with mining works and exploitation of mineral resources, depending on the type of mineral resources, that are the subject of exploitation, the concessionaire is obliged to perform mining measurements and prepare mining plans.

Additionally, the concessioner is obligated to report the obligations for exploited quantities of mineral resources once a year in the period from January 1 to 31 in the current year for the previous year to the Ministry of Economy, for the works in the field of mineral resources to submit data and calculation about the exploited quantities of mineral resources in the current year.

3.5. Risks To Be Considered

In North Macedonia, no oil or gas has been found yet, so there is a risk that the exploration/exploitation of these resources will not give the desired result to the exploratory.

4. Production of Oil & Gas

4.1. Granting Of Oil & Gas Production Rights

As mentioned before, the Energy law does not consider the production of oil and natural as an energy activity for which an energy license is required, but only the production of oil derivates requires a license. The conditions for obtaining the license are prescribed in the bylaw – Rulebook for licenses.

For obtaining the license, the request should be submitted to the Regulatory Commission of Energy, along with proper documentation. If the request and the documentation are sufficient, the Commission within 30 days of the day of the submission of the request, schedules a session during which the filled documentation is being reviewed. Within 10 days after the session, the Commission is obligated to adopt a decision. The license can be issued from three to 25 years, depending on the decision of the Commission.

4.2. Foreign Production

Please see Sections 4.1, 3.2, and 3.1.

4.3. Stages of the Production Process

As mentioned above, the Energy law and Law on mineral resources regulate the exploration, exploitation, and granting rights for performing these activities, however, the production of oil & gas is not regulated, probably due to the fact that these mineral resources in North Macedonia are not yet founded. Hence, North Macedonia only imports oil & gas.

For the concession for exploration and exploitation please see Sections 3.1 and 3.2.

4.4. Obligatory State Participation

Please see Section 3.4.

4.5. Risks To Be Considered

Please see Section 3.5.

5. Termination of Production of Oil & Gas

5.1. Abandonment and Decommissioning

The Mineral resources law regulates the abandonment and decommissions of the area used for detailed geological research or exploitation, as well as processing of mineral raw materials, detailed geological research, exploitation and/or processing of mineral raw materials, performing mining operations and processing operations on mineral raw materials. Pursuant to the law, during the activities and after their completion the commissionaire must carry out rehabilitation and recultivation of the area, in accordance with the project for carrying out detailed geological research, the rehabilitation project, which is an integral part of the main or additional mining project, as well as in accordance with the waste management plan.

5.2. Environmental and HSE Consideration

The relevant law – Mineral resources law – regulates only the obligations of the concessionaire for health and safety during the performance of the activities of exploration and exploitation of the mineral resources. Hence, the concessionaire who carries out detailed geological research or exploitation, as well as the processing of mineral raw materials, during the performance of these activities is obliged to comply with the provisions of this law and the Law on the Environment and other regulations in the area of the environment and must implement environmental protection measures from potential danger and harmful influences.

The concessionaire shall implement measures for the ban on leaving, dumping, or uncontrolled storage of waste from mineral raw materials, and a waste management plan. Pursuant to the law, concessionaires are responsible for the waste they create during the exploitation and processing of mineral raw materials to dispose of them in waste installations.

Also, for granting the permit for the exploitation of the raw materials, a confirmation for a financial guarantee is required, which would be sufficient to cover the costs of eliminating the harmful effects on the environment from the permitted activity.

6. Safety of Oil & Gas Exploration and Production

6.1. International Treaties to Which the Jurisdiction Is a Party

Below is a list of the main international treaties in the field of safe exploration and production of oil & gas to which North Macedonia is a party:

1. Energy Charter Treaty;
2. Treaty Establishing the Energy Community;
3. Convention on Climate Change 2015 (Paris Agreement);

Please also see Section 2.4.

6.2. Offshore Safety Directive

North Macedonia has not implemented the Offshore Safety Directive or any similar act.

7. Import, Export, and Sales of Oil & Gas

7.1. Import and Export of Oil & Gas

Please see Sections 2.1 and 2.2.

7.2. Transportation

Pursuant to the Energy law, the operator of the activity transporting crude oil through an oil pipeline shall be obliged, upon prior approval by the Ministry for Economy, to adopt the operating rules of the pipeline and publish them on its website. These rules shall govern in particular:

- technical conditions for the transport of crude oil;
- the technical conditions for the maintenance and safe operation of the oil pipeline;
- manner of determining the types of instruments for securing payment for crude oil transmission services;
- the manner of harmonization with the users of the pipeline in cases of planned interruptions,
- the content of the plans for the development and maintenance of the pipeline, as well as the manner and procedure according to which the users of the pipeline submit the necessary data for the preparation of those plans;
- the measures and procedures to be implemented in cases of major accident;
- the manner, conditions, and procedure for the agreed access of a third party to the crude oil transport system;
- the functional requirements and the accuracy class of the metering devices, as well as the manner of metering the transported quantities of crude oil and
- any other terms and conditions required for safe and reliable transport.

The rules shall be submitted to the ministry for approval.

The performers of the energy activities transport of crude oil through the pipeline, i.e., transport of oil derivatives through product pipeline shall be obliged to provide in a non-discriminatory and transparent manner agreed access to the users of the oil pipeline, i.e., the pipeline for transport of crude oil.

The performer of the energy activity and the user requesting access to the oil pipeline, i.e., the product pipeline shall conclude an access agreement which in accordance with the Law shall regulate in particular:

- data on the point of receipt and the point of delivery;
- the dynamics of the transport, the quality of the crude oil, i.e., the oil derivative;
- the fee for the performed transport, as well as the types of instruments for securing the payments;
- manner of resolving disputes; and
- contractual penalties for illegal deviations in relation to the agreed quantity and prescribed quality of the transported crude oil, i.e., oil derivative.

The performer of the energy activity may reject the request with a decision, for access due to:

- lack of capacity;
- operating disturbances or overload of the oil pipeline, i.e., the pipeline;
- endangering the safety or functioning of the oil pipeline, i.e., the product pipeline;
- inadequate quality of crude oil, i.e., oil derivative, and in accordance with the decree on quality of liquid fuels;

Ministry of the Economy as a competent authority adopts a methodology for declaring the fee for transport of the oil through the pipeline.

Regarding the natural gas transmission system in the Republic of North Macedonia, the operator of the natural gas transmission activity must be certified as a natural gas transmission system operator. The procedure for certification of the transmission system operator of natural gas is carried out:

1. by the request of the natural gas transmission system operator who has been issued a license for the activity of natural gas transmission; or
2. ex officio by the Regulatory Commission for Energy in case of (i) the operator of the natural gas transmission system does not submit a request for certification, (ii) when a violation of the provisions has occurred or may occur ownership separation prescribed by this law, or (iii) upon a submitted reasoned request from the Secretariat of the energy community (for the foreign entity).

The procedure for certification of persons from third countries begins upon request from the operator or owner of the transmission system of natural gas, the Energy Regulatory Commission implements the procedure for certification of the operator of the transmission system of natural gas that is under the control of a person or a group of persons from a third-party country or third countries.

The Regulatory Commission upon request should notify immediately The Ministry of the Economy in North Macedonia and the Secretariat of the Energy Community.

The Ministry, within two months from the receipt of the notification prepares an opinion in which it contains an assessment of whether the issuance of the certificate can threaten the security of supply in the Republic of Macedonia and/or the security of supply to a contracting party or member state of the energy community.

The Regulatory Commission, within four months from the date of receipt of the request prepares a proposal-decision for certification, i.e., rejection of the request for certification, which should consider the opinion of the Ministry of Economy.

The operator of the natural gas transmission system is obliged to annually prepare a plan for the development of the natural gas transmission system for a period of the next ten years. The plan should be submitted for approval to the Energy Regulatory Commission no later than October 31 of the calendar year and after the plan is approved the same is published on the Energy Regulatory Commission website. The operator of the natural gas transmission system prepares and submits to the Ministry of Economy and the Energy Regulatory Commission one-year, five-year, and ten-year forecasts for the demand for natural gas in the Republic of Macedonia by October 31 of each calendar year at the latest.

The operator of the natural gas transmission system is obliged to:

1. provide services for permanent or interruptible access to a third party and ensure that the price for the capacity subject to interruptions reflects the probability of interruptions and
2. to offer system users long-term and short-term services.

The operator of the natural gas transmission system is obliged to offer natural gas transmission services to the users of the system by applying equal contractual conditions, previously approved by the Energy Regulatory Commission and published on its website.

7.3. Land Rights

Pursuant to the Energy law, construction of new natural gas distribution systems in a certain area of the territory of the Republic of Macedonia is carried out by legal entities based on:

1. a contract for the establishment of a public-private partnership awarded by the government, and
2. public service concession agreement granted by the government, with which the concessionaire undertakes to build use, and manage a new natural gas distribution system.

The government, at the proposal of the Minister for Economy or the local self-government unit, makes a decision to start the procedure for awarding a contract for the construction of a new natural gas distribution system.

Additionally, the law states that this procedure will not be carried out if there is a natural gas distribution system in that area that is not sufficiently used or if a procedure for awarding a contract has been started.

7.4. Access and Integration

The natural gas transmission system is regulated by the operator of the system which maintains, upgrades, and expands the natural gas transmission network, manages the natural gas transmission system, and connections to other systems and natural gas transmission systems of other countries.

Please also see Section 7.2.

7.5. Gas Transmission and Distribution

In North Macedonia, GA-MA AD Skopje performs energy activity, transmission, and management of the natural gas transmission system and is obliged to ensure the reliable and safe operation of the natural gas transmission system, which is ensured by planning, construction, and maintenance of the gas pipeline, on measuring and regulating stations and other equipment, as well as with careful management and supervision of the transmission network and control of all activities in the protective belt of the gas pipeline.

There are currently three smaller systems for the distribution of natural gas, namely the Directorate for TIRZ, JP Kumanovo Gas, and JP Strumica Gas. These companies are holders of licenses for performing energy activities, distribution of natural gas, and supply of natural gas to consumers connected to the natural gas distribution system and are obliged to ensure the development, maintenance, as well as reliable, and safe operation of the distribution system of natural gas for reliable, high-quality and safe delivery of natural gas to users.

Starting from January 1, 2015, the natural gas market in the Republic of Macedonia has been completely liberalized and all consumers can choose from which trader or supplier they will purchase natural gas. The Energy Regulatory Commission has issued 15 licenses for natural gas trade, two licenses for natural gas supply, as well as one license for natural gas supply as a last resort.

Please see Section 7.2 and 7.3.

8. Trading

8.1. Trading License

Regarding natural gas, the following activities are considered energy activities: (i) transmission of natural gas, (ii) organization and management of the natural gas market, (iii) distribution of natural gas, (iv) supply of natural gas, and (v) natural gas trade.

A license is not required for (i) transmission and distribution of electricity or natural gas through direct lines, (ii) natural gas trade in cases where natural gas is not transported through the natural gas transmission or distribution system, (iii) traders and suppliers from contracting states or participants in the Energy Community Agreement for transactions they perform on the organized electricity and natural gas market.

A subsidiary of a foreign person organized in the Republic of Macedonia, whose founder has been issued a license or other appropriate document for trading or supplying electricity or natural gas in a country that is a contracting party or participant in the Energy Community Agreement may, by applying the principle of reciprocity, to carry out these activities in the Republic of Macedonia after a decision has been issued for registration in the register of foreign traders and suppliers of electricity and natural gas who can carry out energy activities in the Republic of Macedonia. The register is established and managed by the Energy Regulatory Commission.

Pursuant to the Energy law, the wholesale natural gas market includes:

1. market with bilateral contracts,
2. organized market and that market day in advance;
3. balance the energy market.

The Ministry of Economy is the owner of the company that is the operator of the natural gas transmission system.

According to the Energy law, the natural gas trader buys natural gas on the natural gas market in the Republic of Macedonia or abroad for the purpose of selling to other traders, suppliers, and consumers who meet the conditions for independent participation in the market, the operator of the natural gas transmission system and the operator of the natural gas distribution system, as well as for sales abroad.

The natural gas trader is obliged to the operator of the natural gas transmission system and the operator of the natural gas market in a timely manner to deliver the information on the quantities of natural gas and the corresponding time schedule specified in all contracts for the purchase and sale of natural gas, as well as from contracts for cross-border transactions through the natural gas transmission system, in accordance with the rules for the natural gas market and the rules for the allocation of cross-border transmission capacities.

The natural gas trader, in cases where he performs cross-border transactions of natural gas, is obliged to provide sufficient transmission capacity, including cross-border and/or distribution capacity and system services, in accordance with the Energy law and the regulations and rules adopted on the basis of this law.

Pursuant to the Energy law, the natural gas trader is obliged to perform his duty in particular to:

1. fulfilled the requirements for financial guarantees established by the operator of the natural gas transmission system and for the obligations for balancing the planned and realized transactions with natural gas,
2. at the request of the Energy Regulatory Commission, timely submit information and reports on natural gas transactions and business activities in the Republic of Macedonia,
3. invoices its consumers for the delivered natural gas, as well as for the transmission capacity and/or the distribution capacity, if it is authorized by the consumer for their provision,
4. ensure the confidentiality of data and quantities of natural gas delivered to consumers.

The trader is obligated to allow the (i) Regulatory Commission for Energy, (ii) the Commission for the Protection of Competition, and (iii) the Secretariat of the Energy Community access to data relating to all their transactions for the purchase and sale of natural gas with consumers who meet the conditions for independent participation in the natural gas market, as well as with the operator of the natural gas transmission system, the operator of the natural gas distribution system or the operator of the natural gas market for at least a period of the last five years.

The Energy law prescribes the separation of activities, according to which the company that holds a license for carrying out the activity of natural gas transmission cannot have licenses and cannot be involved in carrying out the activities of production, organization, and management of the natural gas market, distribution, trade in natural gas or supply of natural gas.

8.2. Products

N/A

9. Competition

9.1. Authorities

The Energy Regulatory Commission and the Commission for the Protection of Competition are the government authorities, which are responsible for the regulation of competition aspects as well as the anti-competitive practices in the oil & gas sector.

As mentioned above the natural gas trader is obligated to allow the commission to have access to the data related to the natural gas trade for at least a period of five years.

9.2. Anti-Competitive Actions

The Energy Regulatory Commission monitors and supervises the functioning of the energy markets in order to:

1. strengthen the efficiency, competitiveness, integrity, and transparency of energy markets,

2. discover irregularities, distortion of competition, and forms of unfair competition on the market, as well as other activities on the energy markets contrary to the laws, other regulations, and the obligations established in the licenses for performing energy activities.

If, during the monitoring of the conditions and functioning of the energy markets the Regulatory Commission for Energy determines an irregularity, it shall adopt a decision ordering the taking of appropriate mandatory measures, including the prohibition of the specific behavior of the perpetrator of energy activity, in order to ensure security of supply, efficient, competitive and non-discriminatory functioning of energy markets, as well as the protection of the rights of consumers and users of energy systems. The decision states the measures that should be taken by the person performing the energy activity, as well as the deadlines by which these measures should be taken and the obligation to submit reports on the measures taken.

The Regulatory Commission for Energy cooperates with other competent state bodies and institutions, as well as with the Regulatory Board of the Energy Community, the energy regulatory bodies of the contracting parties, and participants in the Energy Community and with the Secretariat of the Energy Community.

If the license holders do not act on the decision adopted by the Energy Regulatory Commission, the Commission proceeds with the following:

1. submits a request for initiation of misdemeanor proceedings or other proceedings before a competent state authority, and
2. may start a procedure for suspending or revoking the energy license.

Additionally, if during the monitoring of the functioning of the electricity, natural gas, and thermal energy markets, the Regulatory Commission for Energy assesses that there is no effective competition, it may, in cooperation with the Commission for the Protection of Competition and the Secretariat of the Energy Community, carry out additional research and to take necessary and appropriate measures that ensure the promotion of competition and efficient functioning of the energy markets.

Pursuant to the Competition law, if there are circumstances that indicate the possibility of competition being disturbed, the Commission for the Protection of Competition can conduct an investigation in a certain sector of the economy or for a certain type of contract in different sectors of the economy.

In the course of the investigation, the Commission for the Protection of Competition may with a conclusion request the enterprises to submit data regarding their economic and financial situation, their business relations and connections, data on their statutes and decisions, the number and identity of the persons affected by such decisions, as well as other data of importance for the research.

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In emergency cases, when there is a risk of serious and irreparable damage to competition, the Commission for the Protection of Competition, ex officio with a decision, and based on its initial knowledge of the existence of a violation, determines temporary measures for the company that its behavior can cause serious and irreparable damage to competition. With the decision the Commission will order the cessation of certain actions, the fulfillment of certain conditions or other measures necessary to prevent distortion of competition, and will determine the duration of the measures which should be proportionate and appropriate to the goal to be achieved by the determined temporary measures. If it is necessary and appropriate for the prevention

of distortion of competition, the Commission for the Protection of Competition may by decision change the already determined measures and/or modify their duration.

10. Stability Clause and Dispute Resolution

10.1. Stability Clause

Macedonian legislation does not recognize a stability clause regarding oil & gas companies.

This clause can be foreseen in the agreement between the investor and the government, upon the government's disposition. In practice, this kind of clause, in the agreement is usually a provision that foresees that the investor is protected from political influence or amendment of the laws that regulate the matter of the agreement, in a way that, if this kind of change occurs, the investor shall be compensated.

10.2. Compulsory Dispute Resolution Procedure

Pursuant to the Energy law, the supplier of natural gas shall introduce a single contact center that is staffed and technically equipped, through which it provides its consumers in a timely manner, in a transparent and non-discriminatory manner, without payment of compensation, all the necessary information regarding their rights and obligations, the application of the applicable regulations and the methods of dealing with objections and resolving disputes.

The performer of the transportation of crude oil through an oil pipeline, that is, transportation of petroleum products through a product pipeline, and the user of the oil pipeline, i.e., the product pipeline, upon a request submitted by the user, enter into an access agreement which besides other elements, should contain a provision which regulates the way for resolving the dispute.

10.3. International Treaty Protection

North Macedonia has ratified the New York Convention, (Official Gazette 11/1981 from February 27, 1981), and the ICSID was ratiffied by the Socialist Federal Republic of Yugoslavia (Official Gazette of the SFRY, Supplement, International Treaties, no. 7/1967), accepted by North Macedonia on October 27, 1998.

The litigation shall proceed according to the bilateral or multilateral agreement concluded between North Macedonia and the country to which the foreign entity (investor) belongs.

In general, there should be no special difficulty in litigating or seeking to enforce judgments or awards, against government authorities or state organs. However, there is no case law in the oil & gas sector when foreign corporations have successfully obtained judgments or awards against government authorities or state organs pursuant to litigation before domestic courts. ■


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CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: OIL & GAS 2024

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1. Summary

The Republic of Serbia became a member of the Energy Community by signing the Treaty Establishing Energy Community in 2006. As a member, the Republic of Serbia undertook the obligation and is devoted to legally complying its energy sector with the Energy Community acquis. Therefore, while drafting the Energy Law (Official gazette of the RS no. 145/2014, 95/2018 – other law and 40/2021, 35/2023 – other law and 62/2023), Directive 2009/73/EC of July 13, 2009, concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC as well as Regulation 715/2009/EC of July 13, 2009, on conditions for access to the natural gas transmission networks and repealing Regulation 1775/2005/EC were adopted. Furthermore, in the field of oil, Directive 2009/119/EC of September 14, 2009, imposes an obligation on member states to maintain minimum stocks of crude oil and/or petroleum products is implemented.

Additionally, in 2022, the Government adopted five regulations by which implemented the following natural gas rules i.e., Energy Community acquis communautaire: i) Regulation 703/2015/EU of April 30, 2015, establishing a network code on interoperability and data exchange rules, ii) Regulation 2017/459/EU of March 16, 2017, establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation 984/20131/EU, iii) Regulation 2017/460/EU of March 16, 2017, establishing a network code on harmonized transmission tariff structures for gas, iv) Regulation 312/2014/EU of March 26, 2014, establishing a network code on gas balancing of transmission networks and v) Annex 1 to the Regulation 715/2009/EC governing transparency and congestion management mechanisms. Currently, the transmission system operators are in the final stage of implementing the above-mentioned regulations in their network codes.

Additionally, the Serbian energy sector, including the oil & gas sector as well as renewable energy sources, is in expansion and open to investments.

At the end of 2023, the construction of a new part of the transmission system in the ownership of JP Srbijagas was finished and put into operation. The length of the pipeline is 109 kilometers and it is connected with the Bulgartransgaz transmission system. It is agreed that natural gas from Azerbaijan will be imported in the Republic of Serbia, in the amount of 400 million cubic meters during 2024.

Currently, the Republic of Serbia is negotiating with Romania on signing a memorandum of understanding for the construction of a gas interconnection with Romania, through which the interconnector Republic of Serbia may be supplied with Romanian natural gas which should be cheaper than Russian.

Gas interconnection with North Macedonia is also in consideration.

Speaking of the oil industry, as Republic of Serbia is supplying oil through only one oil pipeline (JANAF). To diversify routes of supplies, the Government of the Republic of Serbia announced the project of a new oil pipeline Hungary-Serbia as a project of importance for the Republic of Serbia. The length of the pipeline will be 128km and it is expected to connect with the Russian oil pipeline Druzba to secure a new route of supply.

2. Overview of The Country's Oil & Gas Sector

2.1. Legal framework – a brief outline of your jurisdiction's oil & gas sector

2.1.1. The Law on Mining and Geological Exploration

The Law on Mining and Geological Exploration (Official gazette of the RS no. 101/2015, 95/2018 – other law and 40/2021) recognizes oil and natural gas as mineral resources of strategic importance to the Republic of Serbia and their exploration and exploitation are considered to be in the public interest. The said law sets out conditions for oil and natural gas exploration, in which exploration may be undertaken by a domestic company, other legal entity, or an entrepreneur.

Additionally, foreign investors may participate in the exploration as well as in its exploitation, but not directly. Namely, for foreign investors to perform exploration/exploitation of oil and natural gas, they must incorporate a branch office and register it before the Business Register

Agency of the Republic of Serbia. When conditions for exploration are met (see Section 3.1.), the competent body of the Republic of Serbia shall issue an exploration permit to the eligible entity.

When the exploration phase is conducted, the entity may submit a request for an exploitation permit. The exploitation of mineral resources is considered the performance of works in the exploitation of oil and natural gas and works in the separation of oil and natural gas, the preparation of oil and natural gas for transport and storage, as well as the extraction of LNG in appropriate facilities.

2.1.2. Energy Law

2.1.2.1. Production and import/export

From the point of view of the Energy Law, the production of natural gas is not considered an energy activity for which an energy license is required. However, for the production of oil derivates, it is necessary that the entity, before the commencement of production, obtains a license. Otherwise, such an entity commits a commercial offense.

As for the import of oil and natural gas, the Energy Law stipulates that an entity must have a license for conducting energy activity oil trade, i.e., energy activity natural gas supply. The energy license is issued upon the request of the interested party by the Energy Agency of the Republic of Serbia (AERS). However, in case oil, i.e., natural gas is imported for its own needs, such a license is not legally required. On the other hand, it is required to have a license for oil trade in the case of oil, LNG, and compressed natural gas exports.

2.1.2.2. Transmission/distribution

Regarding the energy activities of natural gas transmission i.e., distribution, the Energy Law sets out as a mandatory condition to have a license for the respective energy activity.

Furthermore, in line with the EU Third Energy Package, it is mandatory that the energy activity of natural gas transmission is unbundled from the activities of natural gas production and natural gas supply, meaning that the energy entity transporting natural gas is not allowed to be involved in the natural gas production or to conduct energy activity natural gas supply.

As for oil transport, this activity is also recognized as energy activity and thus a license is required.

Currently, in the Republic of Serbia, three natural gas transmission system operators conduct energy activities being Gastrans doo Novi Sad, Transportgas doo Novi Sad, and Yugorosgaz-transport doo Nis. Gastrans and Yugorosgaz-transport have their own transmission system network and Transportgas is using the transmission system of JP Srbijagas. As per distribution, thirty distribution system operators are licensed. On the other hand, only one operator for oil transport is licensed being Transnafta ad Pancevo and it transports oil via pipeline from Pancevo to the border with Croatia where it connects to the JANAF oil pipeline.

Furthermore, the transmission of natural gas/oil and distribution of natural gas are recognized as activities of public interest.

2.1.2.3. Storage

Natural gas storage and oil storage are also energy activities for which conduction is required to have a license pursuant to the Energy Law. Same as for the operator of a natural gas transmission system, the operator of natural gas storage must be unbundled from the energy activities of natural gas transmission, production, and supply. In the Republic of Serbia, only Banatski Dvor has a license for natural gas storage.

However, a license is not legally required when oil is stored for its purposes in a storage facility. In case the facility has a capacity of over 5 tons, approval from the Ministry of Mining and Energy (Ministry) must be obtained.

2.1.2.4. Energy permit

For the construction of a natural gas transmission system, natural gas distribution system, natural gas storage, oil transportation system, and oil storage, it is mandatory to obtain an energy permit. The Ministry is authorized to issue energy permits upon request of the interested party.

2.1.3. Recent Trends

In the oil sector, only one producer of crude oil is operating – Naftna Industrija Srbije. Simultaneously, Naftna Industrija

Srbije is also the dominant player in oil trade, trade on gas stations as well as importer of oil, which is mainly imported from the Russian Federation.

Same as in the oil sector, in the natural gas sector the only producer is Naftna Industrija Srbije. On the other hand, the main supplier of natural gas is JP Srbijagas which is 100% state-owned.

Regarding other market participants gas sector in the Republic of Serbia, currently license for energy activity of natural gas transmission currently holds one company (Gastrans), for natural gas distribution thirty companies, for energy activity natural gas storage performs only one company and for supplies, sixty-four companies are licensed.

In the field of oil, only one company is licensed for oil transportation, 29 companies perform oil storage, 64 are licensed for wholesale oil trade, and 426 for oil trade on gas stations.

As already stated, the Energy Law was drafted in line with the EU Third Energy Package, and unbundling of certain energy activities is required as a consequence. JP Srbijagas, being one of the major players in the Republic of Serbia's natural gas market, commenced a long and complicated process of unbundling. As JP Srbijagas is the biggest supplier of natural gas, and thus cannot conduct energy activity of natural gas transmission, the company Transportgas doo Novi Sad was incorporated for conduction of natural gas transmission. Transportgas doo Novi Sad is in 100% state ownership.

A major recent investment in the gas sector was the construction of the new part of the transmission system of JP Srbijagas which was finished and put into operation in 2023. The length of the pipeline is 109 kilometers and it is connected with the Bulgartransgaz transmission system. It is agreed that natural gas from Azerbaijan will be imported in the Republic of Serbia, in the amount of 400 million cubic meters during 2024. Also, the Republic of Serbia has 300 million cubic meters of LNG in the Alexandropoulos terminal. Constructing this interconnector, the Republic of Serbia has three natural gas supply routes, which represent part of the strategy of natural gas diversification.

Furthermore, as the north of the country is mainly gasified, the south still lacks a developed gas network. JP Srbijagas announced further investments in gasification estimating five to seven years to achieve complete gasification of the Republic of Serbia. For the time being, cca 40% of Serbia's territory is gasified and covers 55% of the population.

2.2. Domestic oil & gas production and imports/exports

2.2.1. Natural gas

A major characteristic of reserves of natural gas is that the Republic of Serbia from its own reserves can cover only a small part of domestic needs for natural gas. The production of natural gas is conducted only in the area of Vojvodina (north part of the Republic of Serbia) with Naftna Industrija Srbije as the only producer of natural gas.

Having in mind that during 2022, in the Republic of Serbia, approximately 28,203 gigawatt-hours of natural gas and at the same time was produced 2,070 gigawatt-hours of natural gas were consumed, it may be concluded that its production of natural gas can satisfy about 7.5% of domestic needs for natural gas. For that reason, the Republic of Serbia is mainly oriented toward importing natural gas, and in 2022 were imported 31,827 gigawatt-hours of natural gas, out of which 23,786 gigawatt-hours were imported from the Russian Federation and 8,041 gigawatt-hours from other sources. Import of natural gas is conducted via gas pipeline.

On the other hand, natural gas is not exported from the Republic of Serbia. However, the Republic of Serbia is a transit country through which natural gas is transported to Bosnia and Herzegovina as well as to Hungary.

2.2.2. Oil

As for natural gas, in the Republic of Serbia, the production of crude oil is conducted by only one company Naftna Industrija Srbije. The total consumption of crude oil and semi-finished products from domestic production, imports, and stocks in 2022 was about 4,087 million tons. In 2022, Serbia produced about 0,824 million tons of crude oil (20.20% of total consumption), and 3,263 million tons (79.80%) was provided from imports, out of which half of the crude oil

originates from Iraq, and the rest from Russian Federation and Kazakhstan.

As per export, in 2022 the Government of the Republic of Serbia prohibited the export of oil due to the political situation in the EU caused by conflict in Ukraine.

2.3. Foreign investment and participation

The Republic of Serbia does not impose restrictions on foreign companies in relation to acquisitions of interest in the Serbian energy sector.

2.4. Protection of investment

The most important international treaties in the energy sector are i) the Stabilization and Association Agreement, entered into force on September 1, 2013, granting the Republic of Serbia the status of an associated country to the European Union, by which agreement the Republic of Serbia, inter alia, undertook the obligation to be as much as possible harmonized with EU energy sector. At the end of 2021, the Republic of Serbia has fulfilled initial requirements in the energy sector (restructuring of the gas sector and creating an action plan on mandatory oil reserves) and therefore has opened an energy chapter in negotiation with the EU, and ii) the Treaty establishing Energy Community, which the Republic of Serbia become party to during 2006. Pursuant to this Treaty and decisions of the Energy Community bodies, the Republic of Serbia has concrete obligations to undertake certain legislative steps in order to comply with EU energy regulations, including in the field of oil and natural gas. Thus, when adopting laws and regulations, the Republic of Serbia takes into account EU regulations to the most extent possible.

A major bilateral treaty in this sector is the Agreement between the Government of the Republic of Serbia and the Government of the Russian Federation on Cooperation in the Fields of Oil and Natural Gas, which was executed in 2008. This Agreement envisages several energy projects: i) the construction of the South Stream, which was stopped, ii) the construction of the natural gas Underground Storage Banatski Dvor, which was constructed and put into operation as of 2012, and iii) the acquisition of Naftna Industrija Srbije by Gazprom. A stability clause and protection from expropriation and similar acts are stipulated.

With regard to bilateral agreements, the Republic of Serbia executed numerous agreements on mutual incentives and investment protection, with over twenty such agreements with EU countries (inter alia United Kingdom, Germany, France, the Netherlands, etc.). The majority of the agreements are executed for ten years with the automatic extension for the same period or indefinite period.

Apart from the said, the Law on Investments of the Republic of Serbia (Official gazette of the RS no. 89/2015 i 95/2018) lists benefits to foreign investors, such as the right to transfer profit, protection from expropriation, or similar acts, stability clause, national treatment, etc.

3. Exploration of Oil & Gas

3.1. Granting of oil & gas exploration rights

The main law governing the exploration of oil and natural gas is the Law on Mining and Geological Explorations. As already said, the exploration of oil and natural gas is not an energy activity for which a license is needed, and such activity is in the public interest of the Republic of Serbia. For any entity to commence work on exploration, it is mandatory to obtain an exploration permit.

The process of issuing exploration permits is initiated by the Ministry by publishing public tender for the exploration of oil, i.e., natural gas. Announcement of the public tender is published in the Official gazette of the RS as well as in the Official gazette of the EU. In the announcement is stated, inter alia, that mineral resources are subject to exploration and exploration field.

Within the exploration phase, it is allowed to take oil, i.e., natural gas when testing exploration well, for a duration of up to one year to test the production and technical characteristics of discovered oil, i.e., natural gas deposits, and define the parameters of their possible exploitation. For such obtained oil, i.e., natural gas, it is necessary to pay royalties as determined by the law governing royalties for usage of public goods.

Additionally, the holder of the exploration permit may submit

a request to retain the right to the exploration area in order to prepare documentation for the exploitation permit, i.e., the exploitation field and exploitation area permit, no later than 30 days before the expiration of the exploration period. The exploration area for oil and natural gas cannot exceed 5,000 square meters.

The holder of an exploration permit is obliged to prepare a yearly report on the results of geological exploration, which report shall cover all findings in the last 12 months. When the exploration phase is over, the holder of an exploration permit must prepare a final report on the results of geological exploration as well as elaborate on resources and reserves of oil/natural gas. Both yearly and final reports must be delivered to the Ministry.

The main characteristics of reserves of oil and natural gas in the Republic of Serbia are the small volume of conventional resources and balance reserves, a relatively high level of performed exploration, and a limited exploration area. Most oil and natural gas deposits have a relatively high utilization rate, which has caused a natural decline in production. Consequently, when drafting action plans and energy strategies, not much space is dedicated to the exploration and exploitation of oil and natural gas. However, the main strategic documents in this regard are i) the Energy Development Strategy of the Republic of Serbia until 2025 with Projections until 2030; ii) the Regulation on Determining the Program for the Implementation of the Energy Development Strategy of the Republic of Serbia until 2025 with Projections until 2030 for the period from 2017 to 2023 and iii) the Strategy on Management of Mineral Resources of the Republic of Serbia until 2030.

Additionally, the Ministry is currently drafting two new energy-significant documents: i) the National Energy and Climate Plan for a period until 2030, with Projections until 2050, and ii) the Energy Development Strategy for a period until 2040, with Projections until 2050.

3.2. Foreign exploration

In the Republic of Serbia, foreign companies are entitled to conduct exploration of oil and natural gas. However, they cannot directly be the holder of an exploration permit, but first, they must incorporate and be duly registered in the Republic of Serbia branch office, through which all necessary legal and factual actions may be done.

Foreign investors may obtain exploration permits in two ways: i) by filing a request for an exploration permit to the ministry (see Section 3.1.), and ii) by transfer. Namely, a domestic public or private company may transfer an exploration permit to another entity, including a foreign branch office. Such transfer is initiated by the holder of an exploration permit filing a request for transfer to the Ministry, and if all conditions set out by the Law on Mining and Geological Exploration are met, the transfer shall occur. The foreign investor shall have the same scope of rights and obligations, regardless of the manner of obtaining an exploration permit.

Additionally, from the law perspective, there are no differences in legal treatment between domestic companies and foreign investors, as well as no difference in the manner of obtaining exploration.

3.2.1. Investment protection by law

Last but not least, the latest amendments to the Law on Mining and Energy introduced the possibility for the Republic of Serbia and the investor who is the holder of an exploration permit may execute an investment agreement. This agreement shall govern the construction of missing infrastructure, environmental protection, financial benefits as well as other important issues for the realization of the project. However, up to now, no such agreement has been executed between the Republic of Serbia and any investor.

3.3. Stages of the exploration process

Please see Section 3.1.

3.4. Obligatory state participation

All findings of the exploration phase must be documented in the relevant reports and elaborate on resources and reserves of oil/natural gas (see Section 3.1.), and these reports and elaborate must be submitted to the ministry. Additionally, the ministry is authorized to forward certain data from the reports and elaborate to the Serbian Geological Institute and Republic

Geodetic Institute, who must treat such data as a business secret.

Furthermore, if the holder of the elaborate reserves and resources does not submit a request for an exploitation permit within six years, the Republic of Serbia shall become the holder of such elaborate reserves and resources of oil/natural gas and thus acquire all rights they derive from.

Last but not least, the holder of the exploration permit must pay royalties to the Republic of Serbia for exploration as well as for taking the oil and natural gas during the exploration phase, as set out by the law governing fees for usage of public goods.

3.5. Risks to be considered

As already mentioned, resources of oil and natural gas in the Republic of Serbia are, to a great extent, already explored and exploited. Thus, potential investment in this regard is accompanied by the risk of possible scarce findings.

4. Production of Oil & Gas

4.1. Granting of oil & gas production rights

The main laws regulating the production of oil and natural gas are the Law on Mining and Geological Exploitation and Energy Law. As per the first law, it is envisaged that the holder of a certificate on reserves and resources is entitled to submit a request for obtaining an exploitation permit, which permits the ministry issues in the administrative proceedings. Please note that the process of obtaining a complete exploration permit is divided into three parts.

First, it is necessary to obtain a permit for the exploitation field. In this permit is determined, inter alia, the type of resources subject to exploitation the deadline for commencement of preparatory works, and the deadline for obtaining a permit for the construction of mining objects and conduction of mining works. Therefore, when the permit for the exploitation field is obtained, the holder may commence on preparatory works (clearing the terrain and removing facilities in order to provide space for the construction of future mining objects and performing mining works) and should commence on drafting necessary documents (see below paragraph) for obtaining next permit.

Second, holders of a permit for exploitation field may submit a request for obtaining a permit for the construction of mining objects and the conduction of mining works. To obtain this permit, it is necessary to prepare investment-technical documentation consisting of among others: i) a feasibility study for the exploitation of mineral resources, ii) a long-term exploitation program, iii) a yearly operation plan, and iv) the mining project. The mining project represents a set of the following projects: main mining project, supplementary mining project, technical mining project, and simplified mining project. The mining project is subject to technical control. When the Ministry issues this permit, the entity is entitled to commence construction of mining objects in line with the mining project.

Third, in case mining objects are constructed in compliance with the mining project, a usage permit for mining objects may be obtained, and exploitation commences.

From the Energy Law's perspective, the production of natural gas does not represent licensed activity. Production of crude oil is also a license-free activity. However, for the production of oil derivates, i.e., unleaded motor gasoline, aviation gasoline, jet fuel, gas oil, heating oil, marine fuels, liquefied petroleum gas, and similar, a license is mandatory. AERS is authorized to issue licenses for energy activities, upon the request of the interested entity. The license is issued for 10 years, with the possibility of extension.

Additionally, as a precondition to commencing the construction of objects for oil production, the Energy Law envisages obtaining energy permits as well. The ministry is authorized to issue an energy permit.

Incentives

Currently, the Republic of Serbia is more devoted to granting incentives for renewable energy sources. However, the Regulation on Conditions and Criteria of Harmonized State Aid for Environmental Protection and in the Energy Sector (Official gazette of the RS no. 99/2021) envisages the possibility of state aid for investment in energy infrastructure. State aid may be granted for energy infrastructure located

in the area of level two of the nomenclature of statistical territorial units whose GDP per capita is less than or equal to 75% of the EU-27 average. Under energy, infrastructure is considered any physical equipment or facility located in the Republic of Serbia or connecting the Republic of Serbia with at least one country and is classified as infrastructure natural gas or oil infrastructure. The amount of state aid may not exceed the difference between the eligible costs and the operating profit of the investment, whereby the operating profit is deducted from eligible costs in advance or through a refund mechanism, up to a maximum of EUR 50 million per market participant per investment project.

Pursuant to the Law on State Aid (Official gazette of the RS no. 73/2019), state aid can be granted through the following instruments: 1) subsidy (grant) or subsidized interest rate on loans, 2) fiscal relief (reduction or exemption from taxes, contributions, customs duties, and other fiscal duties), 3) a guarantee from the state, any legal entity that disposes of and/or manages public funds or another state aid provider, given under conditions more favorable than market ones, 4) waiver of profits and/or dividends of the state, local self-government or legal entity that manages or disposes of public funds, 5) write-off of debt to the state, local self-government or a legal entity that manages or disposes of public funds, 6) sale or use of the publicly owned property at a lower market price, 7) purchase or use of the property at a price higher than the market price by the state, local self-government or a legal entity that manages or disposes of public funds.

4.2. Foreign production

Pursuant to the Law on Mining and Geological Exploration, when the holder of certification on resources and reserves is the Government of the Republic of Serbia, it may transfer such certificate to another entity in two ways: i) through a public auction, on which most appropriate entity shall be chosen, and with such certification, it may commence the procedure for obtaining exploitation permit (see Section 4.1.) or ii) by executing PPP or concession agreement.

Furthermore, if the holder of an exploitation permit (i.e., permit for exploitation field, permit for construction of mining objects and conduction of mining works, and permit for the usage of mining objects) is a public company, it may, under the same conditions as a private entity, submit a request to the ministry to transfer relevant permit to another eligible entity. If all conditions for the transfer of the permit, as set out by the law, are met, the ministry shall render a resolution on the transfer of the relevant permit.

Additionally, if the holder of the exploitation permit is in the process of privatization, the buyer of the holder's property which is used for exploitation may obtain the holder's exploitation permit as well, by an agreement executed between the holder, the buyer of property, the ministry, and the Privatization Agency. The government of the Republic of Serbia must give its consent to such an agreement.

4.3. Stages of the production process

Oil

For the sake of a better understanding of the regulatory part, please take into consideration two different stages of oil production: the production of crude oil and the production of oil derivates.

With respect to the production of crude oil, it is necessary to obtain an exploitation permit. This permit may be obtained by domestic companies as well as foreign entities. However, a foreign entity cannot directly perform this activity, but only through its branch office duly registered with the Business Register Agency of the Republic of Serbia. For this activity, no energy license is needed.

Regarding the production of oil derivates, Energy Law stipulates mandatory licenses for this energy activity, which license is issued for a validity period of 10 years. However, please note that energy activity production of oil derivates may be performed only by a domestic company.

Natural gas

In respect of natural gas production, Energy law considers this activity as a license-free activity. However, from the point of Law on Mining and Geological Exploration, an exploitation permit must be obtained.

Export

Regarding oil and natural gas export please see Section 2.1.

4.4. Obligatory state participation

The Republic of Serbia has an interest in and benefits from the exploitation of oil and natural gas to the same extent from the domestic as from the foreign companies. As already said, the Law on Investment envisages national treatment of investors meaning that foreign investors shall have the same position as domestic companies.

The Law on Fees for Usage of Public Goods envisages a list of royalties connected with the production of oil and natural gas. The most significant one is the fee for usage of oil and natural gas in the amount of 7% of acquired income from selling goods. Furthermore, producers of oil and natural gas must pay a fee for the environment, as such production is classified as a high-risk activity for the environment.

Concerning oil production, energy entities conducting the production of oil derivates are obliged to pay a fee for establishing and maintaining mandatory reserves as well as fees for energy efficiency.

In relation to the export of natural gas and oil, the Republic of Serbia envisages no specific restrictions. For detailed export information, please see Section 2.1.

4.5. Risks to be considered

As already said, the Republic of Serbia does not have a sufficient amount of oil and natural gas reserves, which may attract major investments in this sector (see Section 2.2.).

5. Termination of Production of Oil & Gas

5.1. Abandonment and decommissioning

Pursuant to the Law on Mining and Geological Exploration, it is possible to i) temporarily suspend production and ii) abandon production.

Temporary suspension occurs due to unforeseen circumstances (gas or water burglary, problems with mountain strikes, pit fires, disturbances on main ventilation routes, passage, drainage, transport, landslides, eruptions, etc.) or due to force majeure. In such an event, the holder of exploitation shall notify the mining inspector of the reasons for the suspension.

Prior to the planned suspension of works, which will last longer than 30 days, the holder of the exploitation permit is obliged to perform the necessary measurement, draft supplement mining projects and plans, and make a record of the reasons for the suspension of works, indicating hazards for the reopening of the oil, i.e., natural gas field. During the temporary suspension of works, facilities in the oil, i.e., natural gas fields must be maintained in such a condition that they do not represent danger.

On the other hand, if the holder of an exploration permit wants to abandon the production of oil, i.e., natural gas, it must notify the ministry.

In case of abandonment, the holder of exploitation is obliged to undertake all measures to protect the mining facility and land on which the works were performed and measures to protect and rehabilitate the environment to ensure the life and health of people and property, all in line with the mining project. The rehabilitation works must be undertaken within one year of the abandonment, and the ministry must be informed of the results of the rehabilitation of the environment and conservation of the abandoned mining facilities.

Additionally, when applying for an exploration permit, it is necessary to submit security for the rehabilitation of the environment. Such security may be in the form of either a bank guarantee, promissory notes, or corporate guarantee. If the holder of an exploration permit does not undertake necessary measures of environmental rehabilitation, the costs of rehabilitation shall be collected from the provided security.

5.2. Environmental and HSE consideration

Please see Section 5.1.

6. Safety of Oil & Gas Exploration and Production

6.1. International treaties to which the jurisdiction is a party

The Republic of Serbia is a party to no international treaty governing the safe exploration and production of oil and natural gas.

6.2. Offshore Safety Directive

Having in mind that the Republic of Serbia has no exit to the sea, the Offshore Safety Directive is not implemented, nor any similar rule.

7. Import, Export, and Sales of Oil & Gas

7.1. Import and Export of oil & gas

7.1.1. Oil

Subjects wanting to import oil in order to sell it in the Republic of Serbia must have an energy license (see Section 2.1.). But in case of import for own needs, please have in mind that license is not needed.

When exporting license is also needed, regardless of the purpose of export. Having in mind that an energy license may be obtained only by a domestic company (save for wholesale supply of natural gas), this means that the import and export of oil may be performed only licensed domestic company.

Additionally, producers and importers of oil are obliged to pay excise tax as well.

The Republic of Serbia does not envisage additional authorizations/permits to conduct these activities.

7.1.2. Natural gas

In the field of natural gas, the situation is less complex. Namely, for the import of natural gas with the purpose of selling it in the Republic of Serbia, an energy license is mandatory. Foreign companies may directly (not through the branch office) obtain a license for wholesale supply of natural gas. The same applies to exports and transit through the Republic of Serbia.

Contrary to oil, natural gas is not subject to excise tax, but it may be changed as of January 1, 2025.

7.2. Transportation

Transmission of natural gas and oil is regulated by the Energy Law. Taking into account that transmission of both, natural gas and oil, is a licensed activity, only a domestic company may conduct it.

7.2.1. Natural gas

In the Republic of Serbia exists only three transporters of natural gas, Gastrans doo Novi Sad, Transportgas doo Novi Sad, and Yugorosgaz-Transport doo Nis. As the Energy Law is drafted in compliance with the EU Third Energy Package and EU Directive 2009/73 concerning common rules for the internal market in natural gas, transmission of natural gas must be completely unbundled from the energy activities of natural gas distribution, natural gas storage, supply of natural gas and natural gas production, meaning that the same person cannot have directly or indirectly control over the transmission of natural gas and any of the said three activities.

In order to prove to unbundle from related energy activities, TSO, prior to licensing, must be certified. The administrative procedure of certification is conducted before AERS. Additionally, in the case when the TSO is controlled by a third person from a foreign country, such a TSO must also be unbundled from related energy activities. Upon obtaining certification, the TSO may submit a request for issuing a license for energy activity transmission of natural gas.

In addition to the regulatory part, pursuant to the Energy Law before obtaining a construction permit for the commencement of construction of a transmission pipeline, it is necessary to obtain an energy permit for such a facility.

In relation to access to the transmission system, the TSO is obliged to enable users of the system access to the transmission system on the principle of transparency and non-discrimination. Gastrans doo Novi Sad, for example, uses the Regional Booking Platform for the allocation of transmission capacities to the users. Transportgas plans also to use the Regional Booking Platform.

Regarding the terms of transmission, such terms must be agreed upon in the gas transmission agreement. Pursuant to

the Energy Law, the gas transmission agreement must include, inter alia, data on the delivery point, capacity on the delivery point, and calculation period.

Price for access to the system is regulated, meaning that AERS renders methodology for establishing prices and each TSO is obliged to form its prices to access to the system in line with methodology. Such formed prices are subject to the approval of the AERS before they may be applied. Each of the TSOs publishes its prices on its website.

The only exception regarding the unbundling obligation and access to the transmission system is an exemption from such obligations. Pursuant to the Energy Law (same stipulated in the EU Directive 2009/73), new gas pipeline infrastructure may be exempted from said obligations if such exemption, inter alia, does not prevent competition, improves the security of supply, users of new infrastructure object shall bear costs for it using, etc. The exemption is granted by the AERS. In the Republic of Serbia, only one TSO, Gastrans doo Novi Sad, is exempted and operates under an exemption regime.

7.2.2. Oil

As for the transmission of natural gas, oil transportation is a licensed energy activity, and thus only domestic companies may conduct it. Access to the transportation system is free and based upon principles of transparency and non-discrimination. Prices for access to the system are, the same as for natural gas, regulated.

7.3. Land rights

Acquisition of land may be obtained through an agreement with the landowner. In case it is not feasible, the Law on Mining and Geological Exploration envisages the possibility for expropriation of land for the benefit of the entity that is the holder of either an exploration or exploitation permit.

The process of expropriation is conducted before the administrative body on which territory the land is situated. Within this process, agreement on the fee for the expropriation of land may be achieved between the beneficiary of expropriation and the landowner. If this agreement omits, in the administrative procedure only expropriation of land will be conducted, and land will be transferred to the beneficiary. However, in such a case, a separate procedure for determining of expropriation fee has to be conducted before the competent court.

7.4. Access and integration

For access to the transmission system by users, please see Section 7.2.

On the other hand, in the case of the interconnection of transportation pipelines, an interconnection agreement has to be executed between the respective TSO, or the TSO and distribution system operator/storage operator, by which agreement parties shall regulate their relations.

7.5. Gas transmission and distribution

For transmission of natural gas please see Section 7.2.

The sector of natural gas distribution is quite similarly regulated as the transmission of natural gas. Namely, the Energy Law envisages mandatory energy licenses for the conduction of activity distribution of natural gas. Therefore, only domestic companies may conduct this energy activity.

The distribution system operator must be unbundled from the related energy activities (transmission, supply, and production of natural gas) meaning that it must be independent in the legal form, organization, and decision-making from the vertically integrated undertaking. However, the distribution system operator does not need to undergo a certification process before licensing.

Regarding access to the distribution system, access must be on the principles of transparency and non-discrimination. Same as for natural gas, prices for access are regulated, meaning that the AERS renders methodology on the basis of which distribution system operators form their prices. Such prices are subject to approval by the AERS.

8. Trading

8.1. Trading license

With respect to the supply of natural gas, the Energy Law envisages three kinds of supply: i) supply, ii) public supply, and

iii) wholesale supply.

The supply of natural gas means to supply to the consumers on the free market under market-based prices. Currently, 63 energy entities have licenses for natural gas supply and six for public natural gas supply, out of which only 23 were active in 2022 (mostly JP Srbijagas with a market share of 88,88%).

Public supply may be performed only by public suppliers and, in this case, natural gas is sold under regulated prices to households and small customers. Regulated prices mean that public suppliers form them in line with the methodology rendered by AERS. Regulated prices are subject to approval by AERS. Additionally, JP Srbijagas is designated as a supplier of public suppliers, by the decision of the Government of the Republic of Serbia. When a regulated natural gas market is established, public suppliers will buy natural gas on a regulated market (see Section 8.2.). Currently, 32 energy entities have a license for the public supply of natural gas.

Wholesale supply means selling natural gas to the customers, but not to final customers (customers buying only for their own needs). Currently, no energy entity has a license for wholesale supply of natural gas.

According to the Energy Law, all three kinds of supplies are energy activities for which a license is needed, but a foreign entity may obtain a license only for wholesale supply.

8.2. Products

The Republic of Serbia, for the time being, is not an established regulated market of natural gas. By the latest amendments of the Energy Law, it is envisaged that the TSO with the most exit points on its transmission system shall be responsible for the management and administering of the regulated market of natural gas. The government of the Republic of Serbia shall designate such a TSO.

So far, trade with natural gas is conducted on a bilateral market, meaning that trade is conducted directly between market participants based on executed supply agreements. Prices are based on market principles. The only exception is regulated prices for public supply, which are determined by the public supplier. For the year 2022 average regulated price was 3,46 RSD per kilowatt-hour.

9. Competition

9.1. Authorities

In the Republic of Serbia's energy sector, monitoring over competition field conducts is done by the AERS and Anti-Competition Agency. In this respect, according to the Energy Law suppliers of natural gas and wholesale suppliers of natural gas are obliged to deliver to the AERS and Anti-Competition Agency, as well as to the competent body of the Energy Community, data in connection with the transactions from supply agreements. Such data encompass, inter alia, duration, rules on delivery of natural gas and settlement of obligations, data on quantities, prices, and manner of the identification of users. Suppliers and public suppliers are obliged to keep a record of this data for at least five years.

9.2. Anti-competitive actions

Please note that the AERS is authorized to monitor competition in the oil and natural gas market in the Republic of Serbia. In case irregularities are detected, necessary anti-competitive actions are undertaken by the Competition Agency.

Pursuant to the Competition Law (Official gazette of the RS no. 51/2009 i 95/2013), acts and actions of market participants with a consequence of significant restriction, distortion, or prevention of competition are deemed anti-competition actions.

Furthermore, in case of acquisition, it is necessary to notify the Competition Agency on concentration to obtain approval on concentration, in line with the law.

If during the monitoring of the energy market, the AERS detects any action that may be considered to prevent or restrict competition, it is obliged to notify thereon the Competition Agency which shall conduct the administrative procedure in order to determine whether a breach of competition occurs or not. In case of a positive answer, the Competition Agency

shall render a resolution in which it may determine measures aimed at eliminating the established violation of competition, i.e., preventing the possibility of the same or similar violation, by issuing an order to undertake certain behavior or prohibiting certain behavior.

10. Stability Clause and Dispute Resolution

10.1. Stability clause

The Law on PPP and Concession (Official gazette of the RS no. 88/2011, 15/2016 and 104/2016) envisages a stability clause in a way that after execution of PPP or concession agreement change of law occurs, which leads to deterioration of the position of the public or private partner, the agreement may be amended in order to put public or private partner in the same position as was before the change of law. This law applies to all public or private partners of the state which have PPP or concession agreements.

Additionally, the Agreement between the Government of the Republic of Serbia and the Government of the Russian Federation on Cooperation in the Fields of Oil and Natural Gas contains a stability clause, and therefore NIS as a producer of oil is obliged to pay a fee for exploitation in the amount of 3% of income, instead of 7% as it is now prescribed by the law.

10.2. Compulsory dispute resolution procedure

Dispute resolution between energy entity and their users initially shall be resolved between involved parties. Namely, energy entities are obliged to adopt network codes, within which is regulated right of users to submit objections/appeals to the respective energy entity in case of any breach to the detriment of users. Energy entities are obliged to undertake necessary actions in order to resolve such objections/appeals. If through this internal mechanism, it is not possible to resolve the dispute, the interested party may initiate a procedure before the competent court. Furthermore, it is allowed to be included in the agreement between the energy entity and user arbitration for dispute resolution.

Additionally, suppliers of natural gas are obliged to make a report on resolving objections/appeals of its users and to submit it to the AERS.

As per dispute resolutions between energy entities and state authorities, in case the energy entity is not satisfied with the rendered resolution (on energy licenses, energy permitting, and exploration and exploitation permits) it is possible to initiate a procedure before the Administrative Court. A judgment of the Administrative Court is final and binding for all parties.

10.3. International treaty protection

The Republic of Serbia is a contracting party to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards as of 1981 as well as a contracting party to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States as of 2006.

In addition, when an investor wants to initiate court procedures against a state or any state authority, there are no special conditions that have to be fulfilled. Law on Civil Procedure (Official gazette of the RS no. 72/2011, 49/2013 – CC decision, 74/2013 – CC decision, 55/2014, 87/2018, and 18/2020) provides the possibility for, before filing a claim against the state, to submit a proposal for a peaceful settlement of the dispute to the Republic Public Attorney's Office. If the Republic Public Attorney's Office does not respond within 60 days, it is considered that the proposal was not accepted, and the claim may be submitted to the competent court. ■


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1. Summary

The oil and gas market in the Slovak Republic is part of the internal market of the European Union (EU), therefore the main regulatory framework and any new trends and goals are set by the EU legislation.

The pivotal point in the trajectory of the Slovak oil and gas market regulatory framework and the common attribute for the current state of the oil and gas market in the country is to cope with the consequences of the war started by the Russian Federation on the territory of Ukraine in 2022.

The Russian Federation, as the traditionally largest supplier of oil and gas to the Slovak Republic, lost its then already relatively damaged position as a reliable business partner, because the risk of political interference in existing contracts for both commodities increased significantly upon the start of the war. Additionally, transit routes of oil and gas towards the territory of the Slovak Republic lead from the Russian Federation through the territory of Ukraine. There was and still is a high risk of the flow of commodities being stopped or interrupted either due to the direct destruction or damage of the infrastructure or due to the impossibility of operating it (loss of power supply, impossibility of control/management/Ukraine's decision in response to the attack). Last but not least, as a direct and logical reaction to the attack on Ukraine, sanctions were introduced against the Russian Federation on a wider international level, as well as on an EU level.

Since the Slovak Republic is a landlocked country without any significant production of oil or gas, it is dependent on the import of oil and gas and at the same time an important transit country for both commodities. All of the aforementioned facts therefore meant significant complications in meeting domestic demand for oil and gas (for a reasonable price), as well as in the use of the transmission infrastructure.

At the same time, however, the new geopolitical reality catalyzed decisions and processes at all levels of the market (EU, national government, infrastructure operators, oil processors, traders, suppliers, customers). This, although not undemanding, resulted in an increase in the importance of interstate infrastructural connections between Slovakia and the neighboring states and, in particular, in significantly greater commercial diversification of oil and gas sources. In the gas market, it was the dawn of the LNG supplies to the Slovak Republic through various European coastal LNG terminals. This specific development regarding the supply chain opens interesting opportunities for new players, especially in the field of gas and oil trade and/or supply, or infrastructure & tech investors.

2. Overview of The Country's Oil & Gas Sector

2.1. Legal Framework – A Brief Outline of Your Jurisdiction's Oil & Gas Sector

The Slovak gas market has been designed in accordance with the approximated EU legislation (first to fourth energy package). In addition, the fifth energy package (Fit For 55) and the REPowerEU plan were adopted not so long ago. The existing legal framework for the Slovak gas market is also carved by an extraordinary legal regulation. It was adopted in order to ensure the security of gas supplies in the EU, both from the point of view of commodity sufficiency and affordability. It concerns temporary extraordinary measures on the EU gas market in the form of Regulation (EU) 2022/2576 dealing with the solidarity in the field of gas supply and the voluntary purchase of gas in the EU, Regulation (EU) 2022/2577 concerning the rapid granting of permits for renewable energy sources, Regulation (EU) 2022/2578 on the correction mechanism market, which deals with the ceiling on wholesale gas prices, and Regulation (EU) 2023/706, which concerns the voluntary reduction of gas demand in the EU by 15%.

Directive 2009/119/EC obliges EU countries to maintain minimum oil reserves corresponding to 90 days of average daily net imports or 61 days of average daily consumption of the state, whichever is higher.

As to the national legislative framework, the basic legal regulations in the Slovak Republic in the area regulating the gas market are Act No. 250/2012 Coll. on the regulation in network industries as amended (Regulation Act) and Act No. 251/2012 Coll. on energy as amended (Energy Act).

The rules governing gas exploration and production in

Slovakia are regulated in the Act No. 44/1988 Coll. on the protection and utilization of mineral resources as amended (Mining Act), the Act No. 51/1988 Coll. on mining activity, explosives, and state mining administration as amended and the Act No. 569/2007 Coll. on geological works as amended (Geological Act).

The state regulatory body for the energy sector and network industries in the Slovak Republic is the Regulatory Office for Network Industries (RONI). RONI is responsible for the regulation and control of the entire gas market, both the infrastructural part and as well as the commercial part. Licensing the transmission and distribution system operators, licensing suppliers, providers of gas storage services, approval of the commercial conditions and pricing in the regulated market segments, etc. all fall under the scope of the RONI powers. Regarding the oil market, RONI is a licensor only for the oil transmission operator but doesn't regulate the conditions for the oil transmission system operation.

The transmission system operator, distribution system operator, and storage facility operators play the a key role in the infrastructure part of the Slovak gas industry.

Eustream, a joint stock company ("(Eustream")) holds the license for the operation of the natural gas transmission system. The Slovak gas transmission network with a capacity of slightly more than 90 billion cubic meters per year enables the flow of the natural gas mainly from the Eastern part of Europe to European markets. After some technical upgrades, the system is now able to operate in reverse mode.

SPP – Distribucia , a joint stock company ("(SPP - Distribucia")) holds the license for the operation of the main Slovak distribution network, which is one of the densest gas distribution networks in Europe. It covers around 98% of the gas distribution services provided in the Slovak Republic.

NAFTA joint stock company (NAFTA), with an actual storage capacity of around 27,7 terrawatts-hour (2.6 billion cubic meters) is the key player in the field of gas storage services in the Slovak Republic.

The set of Slovak gas storage services providers is completed by POZAGAS joint stock company (POZAGAS) and SPP storage, a limited liability company (SPP storage). The storage facility operated by the SPP storage is located in Dolni Bojanovice, Czech Republic, but is technically connected to the Slovak gas network.)

In the commercial field of the gas market, the main gas supplier in the Slovak Republic is Slovensky plynarensky priemysel, a joint stock company, owned solely by the Slovak Republic, with a market share of around 64% at the end of 2023. The rest of the market is split between other alternative suppliers.

The Slovak oil transmission network is operated by TRANSPETROL, a joint stock company (TRANSPETROL), owned solely by the Slovak Republic. Besides the commercial/private storage capacities mainly operated by SLOVNAFT, a joint stock company, a system of emergency oil storage facilities has been established to fulfill the obligations under the European and domestic legislation regarding the security of oil supplies.

2.2. Domestic Oil & Gas Production and Imports/Exports

Domestic oil and gas production in the Slovak Republic is very low, covering an insignificant part of the domestic demand. The current domestic gas production in the Slovak Republic is around 55 million cubic meters per year with a total gas consumption of around 4.4 billion cubic meters per year. The trend of actual production is stable to descending and is determined by the fact that existing production sites are almost depleted.

Not least due to its longtime expertise, the main Slovak gas storage facility operator NAFTA is also the leader in the exploration and production of both oil and gas in the Slovak Republic. As of today, NAFTA is exploring the possibility of producing gas in two areas, one being near Trnava in Western Slovakia (partnership with Vermilion Energy) and one being near Besa and Pavlovce nad Uhom in Eastern Slovakia (partnership with Aspect Holdings). The estimated overall potential of these two areas could cover around 10% of the domestic gas demand in the medium term.

The oil production in the territory of the Slovak Republic

is even lower than the gas production. In 2021 it reached a volume of 4,500 tons per year with a total oil consumption of around 6 million tons per year.

Due to the relatively small territory of the Slovak Republic and its geology, the prospect of finding and opening new exploration areas for oil and/or gas is very limited. However, any future exploration and production of oil and/or gas closely depend on the cost-cut-driven technological innovations in the respective field and in the end mainly on the cost-to-revenue ratio of any new project.

Based on the aforementioned domestic production data, the Slovak Republic practically is a full oil and gas importer. Given that, before February 2022, the main supplier of gas and oil to the country was (still, despite the change of geopolitics since 2014) the Russian Federation. In February 2022, the status of the Slovak Republic as a complete importer of oil and gas amplified the seriousness of the risks. Price skyrocketing and the impending risk of commodity flow halting are only some of the challenges that the Slovak government and all gas and oil market participants had and have to deal with.

2.3. Foreign Investment and Participation

The complex regulation of foreign investment screening in the Slovak Republic is provided under the Slovak Act No. 497/2022 Coll. on the screening of foreign investments, which entered into force on March 1, 2023. The act replaced the partial screening mechanism and significantly expanded the scope of the screening regime established by Act No. 45/2011 Coll. on critical infrastructure. The act applies to investments (planned or completed) that enable a foreign (non-EU) investor to acquire a Slovak target or a part of it directly or indirectly. It also applies to an increase in effective participation in the Slovak target. The act defines a "foreign investor" as a person who is not a national of the Slovak Republic or any other EU member state, or a person who does not have a registered office or place of business in the Slovak Republic or any other EU member state.

A specific category of foreign investments, known as "critical foreign investments," are mandatorily screened before their completion. An enterprise from the oil or gas industry is not excluded from this list, as the assessment of whether or not the enterprise is deemed as belonging to a critical foreign infrastructure depends on the type, scale, technology, and overall sensitivity of the business activity in question and is decided upon on a case by case basis.

2.4. Protection of Investment

The legal basis for the regulation of investment protection in the Slovak Republic, being a member state of the European Union, is given directly in the Treaty on the Functioning of the European Union, and in subsequent secondary EU law governing the rules of free movement of capital between member states and to or from third countries.

In addition to the legal framework based on European law, the Slovak Republic is a party to bilateral international agreements, the subject of which is the mutual support and protection of investments. According to the provisions of the Regulation of the European Parliament and Council No. 1219/2012 on establishing transitional arrangements for bilateral investment agreements between member states and third countries, the list of the bilateral investment agreements (already valid or newly concluded) of the member states (i.e., also by the Slovak Republic) with third countries is published every 12 months in the Official Journal of the European Union.

Last but not least, the Slovak Republic is a party to the Treaty on the Energy Charter (Energy Charter), an international treaty, whose original goal was to ensure a stable and investment-safe environment in the energy sector with the aim of stimulating its development. Due to the fundamental paradigmatic shift in the perception of the further development of the energy industry (deviation or abandonment of sources based on fossil fuels, acceleration of the transition to renewable sources), the Energy Charter is currently perceived as outdated and overcome by development. For this reason, in April 2024, the European Parliament and subsequently the ministers of the EU member states agreed to withdraw the EU (and also Euratom) from the Energy Charter. Due to the different approaches of the individual EU member states regarding an energy policy, it is left to the individual member states, whether or not they will continue to be contractual parties to the Energy Charter, which, given

current developments, is very likely to undergo a fundamental reform.

3. Exploration of Oil & Gas

3.1. Granting of Oil & Gas Exploration Rights

According to the provisions of the Mining Act, gas and oil are categorized as reserved minerals. Deposits of reserved minerals constitute the mineral wealth. The geological exploration or extraction of exclusive deposits can be carried out as part of the business activity by a legal entity or a natural person to the extent and under the conditions established by the Mining Act and special regulations, especially the Geological Act.

According to the Geological Act, the Ministry of the Environment of the Slovak Republic (Ministry of the Environment) determines the areas in which it is possible to carry out deposit geological exploration for oil and flammable natural gas (exploration areas). The exploration areas are designated by the Ministry of Environment for a maximum of four years. Upon request of the exploration area holder, this period can be extended by another four years and then again by a further two years. If the specified period is not sufficient to complete the activity in question, it can be extended at the proposal of the exploration area holder by a period that is necessarily needed for the completion of geological works.

It must be distinguished between the holding of the exploration area and the performance of geological exploration itself. According to the provisions of the Geological Act, a geological survey is considered a geological work and only a contractor of geological works who has a geological license is authorized to perform it. A geological license is granted by the Ministry of Environment to a Slovak person or a foreign person based on an application for the issuance of a geological license.

3.2. Foreign Exploration

The Slovak legal order limits the right to apply for the designation of the exploration area only to natural persons – entrepreneurs according to Slovak law or a Slovak legal person only. Therefore, a foreign person interested in the exploration of mineral deposits in the territory of the Slovak Republic can conduct its activities in this area whether as a natural person authorized to do business in the Slovak Republic or through an ownership interest in a Slovak entity incorporated under the Slovak law.

3.3. Stages of the Exploration Process

The exploration process (deposit survey) is divided into three main stages (i) exploratory deposit geological survey, (ii) detailed deposit geological survey, and (iii) mining deposit geological survey. These stages can be carried out separately or jointly, depending on the specific characteristics of the exploration area and the geological work project.

The exploratory deposit geological survey is used to search for and verify the deposit, while its approximate extent is determined on the discovered exclusive deposit and reserves are verified and calculated, suitable rock structures or underground spaces are detected and verified, their possible leaks and their suitability for gas and liquids storage, and other conditions important for possible mining are determined (occurrence of caves, stability of underground spaces, influence of old mine works, etc.).

A detailed deposit geological survey of an exclusive deposit serves to further verify the deposit stock in the quantity and quality necessary for their use, verify the extent of rock structures or underground spaces detected in the exploratory survey, calculate their volume, examine the permeability to the surroundings, hydrogeological conditions and prepare geological documents for further possible use of the underground space released by oil and/or gas extraction.

The mining deposit geological survey of the exclusive deposit serves to refine knowledge about the distribution of reserves and their quality and pollutants, as well as to refine knowledge about geological and mining technical conditions, which are necessary for the conversion of deposits of oil, flammable natural gas, technically usable natural gas or salt into an underground reservoir of gases or liquids.

3.4. Obligatory State Participation

According to Slovak legislation, mineral wealth is owned by the

state. Among other things, mineral wealth is made up mainly of deposits of reserved minerals, which also include oil and gas.

The Slovak Republic does not condition the designation of the exploration area (enabling the search for minerals) or licenses for the extraction of minerals by its direct or indirect participation in the mining process itself (on a private law level). The state monopoly over the mineral wealth is implemented (i) by public law regulation of the licensing process through state administration bodies in the relevant section (Mining Activities, environmental protection) and (ii) by monetizing Mining Activities in the form of payments to the state budget (payment for mining area, payment for extracted minerals).

3.5. Risks To Be Considered

We do not see any particular legal risk associated with the oil and gas exploration process.

4. Production of Oil & Gas

4.1. Granting of Oil & Gas Production Rights

According to the provisions of the Mining Act, only an organization that has a mining authorization (authorization according to Act No. 51/1988 Coll.) and has a designated mining area to it, has the right to mine from an exclusive deposit and to dispose of the mined minerals (i.e., gas or oil). The mining area, its change, and cancellation shall be determined by the decision of the district mining office.

The priority right to designate the mining area belongs to the organization that holds a designated exploration area and has conducted the exploration at its own expense. The right of priority can be exercised by submitting a proposal for the designation of the mining area no later than one year after the assessment and approval of the final report containing the calculation of reserves during the deposit geological survey period by the Ministry of the Environment of the Slovak Republic. During the validity of the decision on the designation of the exploratory area, it is not possible to designate within its borders the mining area of another organization for the same type of mineral for which the exploratory area is designated. If the authorized organization did not exercise the priority right to designate the mining area within the statutory period and the proposal to designate the mining area was submitted by another organization or several other organizations, the district mining office will conduct a tender procedure to designate the mining area.

4.2. Foreign Production

The foreign production of oil and/or gas is governed by the same principles as foreign exploration.

4.3. Stages of the Production Process

The production process can be divided into the stages of opening, preparatory and extraction work, treatment, and refinement of mined minerals. The respective mining and geological legislation sets up the regulations under which the whole process and its individual stages and activities can be conducted. They also govern the duties of the organizations to which the mining authorization is granted.

4.4. Obligatory State Participation

The principles of state participation in oil and/or gas production in the Slovak Republic are explained in Section 3.4. related to the state's participation in the exploration process.

4.5. Risks To Be Considered

We do not see any particular legal risk associated with the oil and gas exploration process.

5. Termination of Production of Oil & Gas

5.1. Abandonment and Decommissioning

The decommissioning of the oil or gas mining facilities is governed mainly by the provisions of the Mining Act. After the termination or permanent stoppage of operations in the main mining facilities, if it is not possible to use them for any other purpose under the provisions of the Mining Act or special regulations the mining area holder is obliged to carry out their liquidation. Part of it is a recultivation of agricultural land and forest land affected by the mining activity.

5.2. Environmental and HSE Consideration

Health protection, safety at work, and the protection of the environment are very important areas on which Slovak legislation places emphasis during the entire process of authorizing, operating, and closing facilities for oil and gas exploration and production. The goal is to ensure the safety, health, and working ability of employees of companies implementing such activities related to the exploration and extraction of oil and gas, which are obliged to implement technical, organizational, and personnel measures to achieve this goal. Environmental protection is a factor that is inherently and integrally linked to the process of oil and gas exploration and production, and ultimately, with the right of the public to participate in permitting processes, is decisive in the overall economics of any exploration or production project.

6. Safety of Oil & Gas Exploration and Production

6.1. International Treaties to Which the Jurisdiction Is a Party

Besides the participation in the Energy Charter mechanism, currently looking for fundamental reconstruction, the legislative framework of the Slovak Republic in the field of oil and gas exploration and production is based on EU law with an accent on environmental protection.

6.2. Offshore Safety Directive

Since the Slovak Republic is a landlocked country, the provisions of the Offshore Safety Directive (except for some minor exceptions) are not relevant to activities carried out on its territory.

7. Import, Export, and Sales of Oil & Gas

7.1. Import and Export of Oil & Gas

Import and export of the gas to and from the Slovak Republic are physically realized by the facilities of the gas transmission network operated by Eeustreameustream. It is a system of four compressor stations and four to five parallel pipelines with a total length of almost 2,270 kilometers, connected to the primary transmission systems of the neighboring counties by the entry/exit points Velke Kapusany and Budince (connection to Ukraine), Baumgarten (connection to Austria), Lanzhot (connection to the Czech Republic), Velke Zlievce (connection to Hungary) and Vyrava (connection to Poland). A specific "domestic point" serves as the entry/exit point connecting the transmission network with the Slovak distribution system and storage facilities. A limiting factor regarding the import and export of gas is the volume of the cross-border capacity of the network. According to the provisions of the Energy Act, Eustream as the transmission system operator has the duty to conduct without discrimination to any user of the network and to provide the cross-border capacity on fair conditions upon the fulfilment of the conditions under the issued operational order.

Only the infrastructure operated by TRANSPETROL is available for the import and export of crude oil to and from the Slovak Republic. Historically, the vast majority of crude oil imported to the Slovak Republic was of Russian origin. After the sanction mechanism came into force, the oil pipeline Adria became an important source pipeline for the import of crude oil from the Southern part of Europe to the Slovak Republic. Due to the different mixtures of crude oil flowing through the Adria pipeline and in order to adapt to the change, massive investments in the oil refining infrastructure had to be made by the SLOVNAFT refinery.

7.2. Transportation

Access to the gas transmission network is provided by means of capacity allocation at the respective entry or exit point, by entering into a contract on the access to the transmission network and gas transmission, and by depositing a financial guarantee. Subject to the fulfillment of the conditions set out in the Eustream operational order and after the financial guarantee has been deposited, the contract on the access to the transmission network and gas transmission may be entered into by electronic means. Capacity at the EU interconnection points (entry and exit points Lanzhot, Baumgarten, Vyrava, and Velke Zlievce) is allocated in auctions in accordance with the Regulation of the European Parliament and of the Council No. 715/2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005. Capacity at the interconnection points to/from third, non-EU, countries and the domestic point is allocated

based on a request for access to the transmission network and gas transmission, based on a first-come-first-served principle.

TRANSPETROL provides the service of transit and domestic transportation of crude oil through the oil pipeline system of the Slovak Republic and its storage in its storage tanks. Access to the oil pipeline system and transportation of oil is made possible by TRANSPETROL after concluding a business agreement and a technical agreement with the user and with the precondition of having concluded a valid and effective connection agreement between TRANSPETROL and the user. Oil transportation will be carried out by TRANSPETROL based on a disposition order from the user, with whom it has concluded both the commercial and the technical agreement.

7.3. Land Rights

According to the provisions of the Energy Act, the holder of a license for activities in the gas industry or an authorized person may, to the extent necessary and in the public interest, carry out authorizations and specific activities related to the operation of the gas facility for which the license has been issued. In particular, it is a right to establish gas pipelines and equipment for the transmission network, distribution network, and storage facility as well as equipment intended for their protection, prevention of malfunctions or accidents, or to mitigate the consequences of malfunctions or accidents for the protection of life, health and property of persons.

When permitting such construction, the construction authority decides on the conditions under which the construction can be carried out and operated on someone else's land. The rights of the builder to carry out the construction are created by the legal validity of such a decision. Other authorizations of the license holder include the right to enter and access someone else's land and other objects and equipment to the extent and in a manner necessary for the performance of the licensed activity and the right to carry out the licensed activity on gas facilities on foreign real estate if this is considered necessary to ensure the operation of the gas network, the construction of which was allowed according to construction regulations.

The obligations of real estate owners corresponding to the authorizations of the holder of a license for activities in the gas industry under the Energy Act are considered easements associated with the ownership of real estate. The proposal to make an entry in the real estate cadastre (to register an easement) must be submitted by the license holder in the prescribed manner. A geometric plan setting out the scope of the easement is also attached to the proposal for entry to the real estate cadastre.

The property owner is entitled to adequate one-time compensation for the establishment of an easement. Compensation will be provided for the acreage in which the owner is limited in the use of the property due to the application of a legal easement by the license holder.

Rights corresponding to easements belong to the license holder. If there is a change in the person of the license holder, the rights corresponding to the easements are transferred to the new license holder.

7.4. Access and Integration

The main gas facilities on the territory of the Slovak Republic have the character of being unique facilities. It is due to the specific requirements for their construction (e.g., suitability of the geological subsoil for the establishment of gas storage facilities) or due to the significant financial cost of building similar alternative networks. Therefore, they do not have, and naturally, it cannot reasonably be assumed that they could have any competition. For this reason, the operation of these gas and oil facilities can be considered a monopoly or quasi-monopoly activity.

To ensure that there is no abuse of the said privileged position of the operators of the main gas facilities, the Regulation Act and the Energy Act regulate the activities of the relevant license holders. They have a duty to operate the facilities in a way that enables the use of them (their available technical capacities) by all interested parties after meeting transparently established conditions (commercial, technical, contractual). In the mentioned industries RONI applies material and/or price regulations.

The details of the rights and obligations of the affected market participants when using the mentioned unique facilities are established by the operating orders of dEeustream as the

gas transmission network operator, SPP – Distribucia as the main gas distribution network operator (and other local gas distribution network operators), NAFTA and POZAGAS as the operators of gas storage facilities and TRANSPETROL as the oil pipeline network operator.

7.5. Gas Transmission and Distribution

Due to the relatively small territory of the Slovak Republic, there are no specific zones or areas for gas transportation and gas transmission. Thus, the pipeline, the compressor stations, and other facilities of Eustream serve as the transmission and transportation system for the whole territory.

On almost the whole territory of the Slovak Republic, the natural gas is distributed by SPP – Distribucia. Only in relatively small areas (areas and/or infrastructures of former larger factories, new residential projects, etc.) local distribution systems are operated by local gas distribution system operators.

Under the provisions of the Energy Act, the transmission system operator, as well as the distribution system operators, have the duty to enable access to the system and to provide the transmission/distribution service on an equal basis, without any discrimination to any user after the fulfillment of the technical, financial, and commercial conditions of the relevant systems operators.

8. Trading

8.1. Trading License

According to the Energy Act, RONI is the licensing authority with regard to the activities related to the energy sector in the Slovak Republic. In the oil & gas field, a license is required for the production, transportation, distribution, storage, and supply of gas, the operation of oil pipelines, the operation of pipelines for the transport of propellants, the operation of equipment for filling pressure vessels and for the operation of equipment for the distribution of liquefied gaseous hydrocarbon.

A license for the supply of gas in the Slovak Republic can be granted by RONI to foreign persons upon application and under the fulfillment of certain obligatory conditions. These include the permanent residence or a registered office on the territory of a state that is a contracting party to the European Economic Area Agreement and an authorization to supply gas, issued under the law of the state of permanent residence or registered office or of another state that is a contracting party to the European Economic Area Agreement.

A license for conducting business in the energy sector for the activity of gas supply (for a natural or legal person) is required for business activities regarding the sale of gas to consumers in a defined territory of the Slovak Republic and for the sale of gas in a defined territory of the Slovak Republic at the entry-exit point "domestic point" of the transmission network operated by Eustream.

A business license in the energy sector for the activity of gas supply is not required for business activities concerning gas storage in a gas storage facility, gas transportation to the territory of the Slovak Republic, cross-border (transit) gas transportation, the sale of gas to traders or customers at the border entry-exit points of the transmission network Velke Kapusany, Lanzhot, Baumgarten, Velke Zlievce and Budince, and finally gas trading in the virtual trading point (VTP).

VTP is located in the gas transmission network between entry and exit points and allows the change of ownership of gas not only between users of the transport network with reserved transport capacity but also between registered gas traders in accordance with the Eustream operational order.

The Slovak legislation sets a straightforward administrative permitting procedure for some activities in the energy sector. Only a notification by the entrepreneur (prior to commencing the activity) to RONI is required to conduct such activities. Such a regime concerns the specific list of activities (e.g., the production and supply of gas from biomass or biogas, the sale of compressed natural gas intended for motor vehicles, etc.).

Some activities in the energy sector are not considered as an energy business, therefore a license or permission is not required. They include the gas production and gas distribution exclusively for one's own consumption and the gas supply (including the provision of gas transport, gas distribution, and other services connected with gas supply) for other persons at purchase prices (including price components for gas

transportation, gas distribution and other services associated with gas supply) without further increase. However, the legal entity or natural person has the duty to notify RONI of these activities.

8.2. Products

On the trading level of the natural gas market, commercial activity is realized mainly through commodity exchanges (PXE, EEX) or gas trading hubs (CEGH, TTP). Also, the standardized EFET bilateral contracts are frequently used.

Gas wholesale by the gas suppliers to the largest commercial customers is conducted using EFET contracts, non-standardized bilateral contracts, or by the mix of the midterm exchange hedging with final bilateral contracts concluded before delivery.

Under the provisions of the Regulation Act, the price for the supply of gas to the so-called vulnerable customers is regulated. The maximum price of gas supplied to vulnerable customers is set by the decision of RONI.

9. Competition

9.1. Authorities

The central authority of the state administration in the area of the protection of economic competition in the Slovak Republic is the Antimonopoly Office of the Slovak Republic. It focuses on the protection of competition and state aid coordination. It intervenes in cases of various forms of competition restriction, controls mergers, and ensures conditions for further competition development. Its competencies include investigating relevant markets, addressing anticompetitive practices (such as cartel agreements, the abuse of a dominant position, and vertical agreements), and overseeing state and local administration authorities' actions related to competition.

9.2. Anti-competitive Actions

The Antimonopoly Office of the Slovak Republic grants clearances in various contexts related to competition. In the area of mergers and acquisitions, it assesses mergers between undertakings that meet turnover criteria. If a merger fulfills notification criteria, this must be notified to the Slovak Antimonopoly Office for evaluation.

Cartel agreements between directly competing undertakings are considered serious infringements of competition rules. The Antimonopoly Office of the Slovak Republic also addresses anti-competitive practices such as vertical agreements and the abuse of a dominant position.

10. Stability Clause and Dispute Resolution

10.1. Stability Clause

No particular stability clauses for oil & gas companies have been identified. In general, the licenses and permissions for business activities in the energy sector are not time-bounded, which means that for the time the subject has the valid license or fulfilled all the mandatory conditions for the entitlement to doing business in the energy sector, it has the right to conduct business. In the field of oil and gas exploration, the subject holding the exploration area is entitled to repeatedly request time extension for finishing the exploration.

10.2. Compulsory Dispute Resolution Procedure

Under the provisions of the Regulation Act, RONI is granted by the limited competence to solve disputes concerning the regulated gas market participants at least as one of the dispute participants, if the participants agree with such procedure and only if no more than one year has passed since the breach of the obligation of the party to the dispute proceedings. Otherwise, the dispute has to be decided by the competent court.

Disputes not concerning the regulated participants of the gas market are frequently solved by the arbitration courts based on the commonly used arbitration clauses.

10.3. International Treaty Protection

Since May 28, 1993, the Slovak Republic has been a contractual party (as the successor of the former Czechoslovakia) to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Under EU law, based on the provisions of the Treaty on the Functioning of the European Union and for the sake of the

free movement of judgments, Regulation of the European Parliament and the Council No. 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters applies in the Slovak Republic regarding the question of the recognition and enforcement of judgments of the courts of EU member states in other EU member states.

In addition, the Slovak Republic is a party to many bilateral international agreements regarding mutual legal assistance. Depending on the specific agreement, the scope of the assistance can also subsume commercial matters. ■


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CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: OIL & GAS 2024

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1. Summary

In terms of oil & gas supplies, Slovenia is import-dependent and was heavily affected by the recent energy crisis. Following the reductions of natural gas supplies from Russia and the complete prohibition of fracking enacted in 2022, the government aims to reduce the import dependency on Russian gas and promotes the reduction of gas consumption. In this regard, Slovenia has entered into a long-term agreement with Algeria which is now covering approximately one-third of Slovenian natural gas consumption. There are also ongoing discussions with Croatia on the expansion of the LNG terminal on the island of Krk. During the energy crisis natural gas prices were regulated, for certain segments of customers, and the regulation of prices remained in force up until the end of April 2024.

Following the statutory prohibition of fracking in Slovenia in 2022, one of the foreign investors in the oil & gas fields in north-east Slovenia initiated an arbitration against Slovenia in front of the International Centre for Settlement of Investment Disputes. It claims damages in the amount of EUR 500 million. The case is still pending and it is the first such claim of a foreign investor against Slovenia in the field of oil & gas production in Slovenia.

In the oil sector, the prices of gasoline and diesel fuel are, following a brief period of full liberalization, again state-regulated as of June 2022. At the time being the regulation of prices applies to gas stations outside the highway and expressway grid. Fuel traders are challenging the price regulation and are claiming compensation from the state for damage caused by it. Their claims primarily concern the allegedly inadequate formula for calculating the regulated price under the government's bylaws.

2. Overview of The Country's Oil & Gas Sector

2.1. Legal Framework – A Brief Outline of Your Jurisdiction's Oil & Gas Sector

In its upstream segment Slovenian oil & gas sector is governed mainly by the Mining Act (Zakon o rudarstvu, MA-1) and its bylaws, such as the Rules on auctions for the selection of holders of mining rights for the exploration and exploitation of mineral resources (Pravilnik o drazbi za izbiro nosilca rudarske pravice za raziskovanje in izkoriscanje mineralnih surovin).

Midstream, the Slovenian gas sector is regulated by the Gas Supply Act (Zakon o oskrbi s plini, GSA) which came into force in January 2022. Regarding the midstream transportation of oil, there is no sector-specific legislation in place.

Downstream, the Slovenian gas market is governed by the GSA and the Decree on the operation of the natural gas market (Uredba o delovanju trga z zemeljskim plinom). During the recent energy crisis caused by the war in Ukraine, the prices of natural gas were regulated by the Price Control Act and its bylaws. For certain segments of customers, the regulation of prices remained in force up until the end of April 2024.

Following a brief period of full liberalization, the prices of gasoline and diesel fuel are again state-regulated as of June 2022. At the time being the regulation of prices applies to gas stations outside the highway and expressway grid. Fuel traders are challenging the price regulation and claiming compensation from the state for damage caused by it. Following the supply-chain dysfunctions and increases in prices in 2022, the new Law on mitigating the crisis in energy supplies (ZUOKPOE) has also broadened the state`s duty to create reserves of oil and oil derivatives.

Slovenian legislation governing the gas sector aims to ensure a competitive, secure, and accessible gas supply – taking into account the principles of sustainable development – and to establish comprehensive competitive, flexible, fair, and transparent gas markets. It also aims to reduce the import dependency on Russian gas and promotes the reduction of gas consumption. Similarly, the legislation governing the oil sector focuses on sustainable and effective use of this natural resource, with a particular emphasis on economic development and protection of the environment.

As stated above, recent legislative trends in the Slovenian oil & gas sector have mostly aimed to mitigate the consequences of the energy crisis that started in 2022.

2.2. Domestic Oil & Gas Production and Imports/Exports

Regarding natural gas and oil, Slovenia is almost entirely import-dependent. According to information in the media, the majority of the natural gas is still being imported from Russia through Austria. Slovenia is one of the few member states that failed to decrease natural gas consumption by at least 15% from 2022. Following the energy crisis in 2022, the government is striving to diversify its network of gas importers and has entered into a long-term agreement with Algeria which covers approximately one-third of Slovenian natural gas consumption. In the long term also the possibility of expanding and using the LNG terminal on the island Krk in Croatia is being explored and discussed together with Croatia.

Transport of gas, including transport for import and export, is mostly carried out via the network of pipelines, whereas only a modest percentage is transported in the form of LNG.

Oil and oil products satisfy approximately 36% of Slovenian energy requirements. This means a 2% increase compared to 2021. The share of domestic production is negligible. In 2023, the quantities of imported oil and oil products amounted to 4,373,034 tons, according to the data published by the Statistical Office of the Republic of Slovenia. In the absence of oil pipelines in Slovenia, oil is being transported – including import – via sea and ground transport.

2.3. Foreign Investment and Participation

In May 2020, Slovenia introduced a screening of foreign direct investments in specified critical sectors – energetics being one of them. The screening is, ironically, regulated by the act named Investment Facilitation Act. If foreign investors from outside of the EU wish to acquire at least a 10% share in a domestic company acting in such critical sectors, they must notify the Ministry of the Economy, Tourism and Sport. The ministry assesses whether the investment poses a risk to security and public order in Slovenia and can either approve it, determine additional requirements for carrying out the transaction, or block it.

2.4. Protection Of Investment

With regard to international treaties protecting investments, in 1992 Slovenia became the successor to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, and in 1994, Slovenia ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States. Furthermore, investments in these sectors are enhanced and protected also with bilateral investment treaties. Slovenia is also a signatory to the Energy Charter Treaty.

As an aftermath of the statutory prohibition of fracking in Slovenia in 2022, one of the foreign investors in the oil & gas fields in north-east Slovenia initiated an arbitration against Slovenia in front of the International Centre for Settlement of Investment Disputes. It claims damages in the amount of EUR 500 million.

Indirectly, the legislative goals of sustainability are influenced also by the Paris Agreement of December 12, 2015, which Slovenia ratified on November 25, 2016.

3. Exploration of Oil & Gas

3.1. Granting of Oil & Gas Exploration Rights

Considering the very scarce domestic production and the statutory ban on fracking introduced in 2022, the national provisions in this field are in practice of no particular importance.

Exploration of oil & gas reserves is governed by the MA-1 and its bylaws. For the exploration of oil & gas reserves in Slovenia, an exploration approval (dovoljenje za raziskovanje) is required. The approval is granted in a public tender procedure by the Ministry of Infrastructure, for the exploration area, mineral resources, and the period defined therein. Exploration through fracking is prohibited.

3.2. Foreign Exploration

In the public tender procedure (see Section 3.1.) the exploration approval may also be granted to foreign investors from (i) the European Union; (ii) the European Economic Area; (iii) Switzerland; (iv) the members of the Organization for Economic Co-operation and Development (OECD); (v)

third countries under the condition of material reciprocity. The legal status of such approval is an administrative decision granted by the Ministry of Infrastructure. The approval, regardless of whether the holder is a domestic or a foreign investor, is transferable only with the approval of the Ministry of Infrastructure.

3.3. Stages of the Exploration Process

Prospecting of mineral resources is free and not subject to administrative approvals. For exploration, an exploration approval is required (see Section 3.1.), whereas a concession is required for the exploitation of mineral resources (see Section 4.1.).

Within the exploration process, no separate authorizations are required for its different stages.

3.4. Obligatory State Participation

All mineral resources, including oil & gas, are owned by the Republic of Slovenia. Its direct pecuniary benefits are the compensations and fees imposed on the holders of exploration and/or exploitation rights.

3.5. Risks To Be Considered

Since the enactment of the explicit prohibition of fracking in 2022, there is no more legal unpredictability in this regard. Considering the scarcity of natural resources and the newly introduced statutory prohibition of fracking there are not many business opportunities for exploration of oil & gas in Slovenia. For the time being it seems highly unlikely that the laws would change, and that fracking would be allowed in the near future.

4. Production of Oil & Gas

4.1. Granting Of Oil & Gas Production Rights

Production of oil & gas is governed by the MA-1 and its bylaws. For the production of oil & gas in Slovenia, a concession for the exploitation of mineral resources (koncesija za izkoriscanje mineralnih surovin) is required. The concession is granted in a public tender procedure by the Ministry of Infrastructure, for the exploitation area, mineral resources, and the time period defined therein.

4.2. Foreign Production

Exploitation concession may also be granted to foreign investors from (i) the European Union; (ii) the European Economic Area; (iii) Switzerland; (iv) the members of the OECD; and (v) third countries under the condition of material reciprocity.

Granting of the concession is first foreseen in the concession act issued by the government. Based on the concession act, a public tender is carried out by the Ministry of Infrastructure. The selected bidder then signs a concession contract with the Ministry of Infrastructure. In legal terms, a concession is thus a contract with the ministry, based on an administrative decision on the selection of the best bidder. The concession, regardless of whether the holder is a domestic or a foreign investor, may be transferred only with the approval of the Ministry of Infrastructure and only if the statutory conditions for such transfer are fulfilled – e.g., the new holder should meet all the conditions for obtaining the concession, which have been set in the concession act and the public tender. The exploitation concession may be issued for a maximum period of 50 years.

4.3. Stages of the Production Process

See Section 3.3. Within the production process, there are no different concession procedures envisaged for different stages of the production. The stage and method of exploitation are described in the concession contract.

4.4. Obligatory State Participation

The concession holder is obliged to pay an annual concession fee and the reserve funds for the remediation. The concession fee is calculated in line with the decree determining the mining site reclamation payment (Uredba o rudarski koncesnini in sredstvih za sanacijo), depending on the size of the exploitation area and the average price of the mineral resource being exploited.

Regarding the state's ownership interest, see Section 3.4.

According to the GSA, in case of a severe energy crisis, the export of natural gas can be restricted.

4.5. Risks To Be Considered

See Section 3.5.

5. Termination of Production of Oil & Gas

5.1. Abandonment and Decommissioning

Abandonment and decommissioning of infrastructure used in oil & gas production are governed by the MA-1. If the concession holder intends to terminate the exploitation of oil or gas, it has to notify this in advance of the mining inspection and at the same time request permission from the Ministry of Infrastructure for the termination of mining works. The ministry then appoints a commission for the technical inspection which inspects the mining site and checks whether the conditions for safe termination of mining works are fulfilled. After the technical inspection, the holder of the mining right submits a proposal to the mining authority at the ministry for the approval of the mining project for the termination of mining operations. If the ministry approves it, the concession holder carries out the termination and decommissioning in line with the approval. Afterwards, the concession holder provides the ministry with evidence thereof and applies for a decision on the termination of the exploitation right. After receiving such an application, the ministry again appoints a commission that examines whether the required termination and decommissioning works have been done adequately. If the commission`s findings are positive, the Ministry of Infrastructure issues the decision on the termination of the exploitation right.

5.2. Environmental and HSE Consideration

The commission appointed by the Ministry of Infrastructure (see Section 5.1.) is composed of the representatives of ministries responsible for mining (including its health and safety aspects), spatial planning, environmental protection, and the local commune representatives. Considering its composition, the commission examines also the environmental, health, and safety issues of the abandonment, and decommissioning process.

6. Safety of Oil & Gas Exploration and Production

6.1. International Treaties to Which the Jurisdiction Is a Party

Slovenia is a party to the Energy Charter Treaty and to the Protocol on Energy Efficiency and Related Environmental Aspects.

6.2. Offshore Safety Directive

With the amendment of the MA-1 in 2013, Slovenia partially implemented the OSD. In article 1 of the MA-1, it is explicitly stated that the prospecting, exploration, and exploitation of oil & gas at sea (offshore) is forbidden.

7. Import, Export, and Sales of Oil & Gas

7.1. Import and Export of Oil & Gas

Cross-border sales and deliveries of natural gas have to be entered into the Virtual Trading Point established by the Slovene Transmission System Operator (TSO) – Plinovodi d.o.o. For such transactions, the parties have to acquire sufficient cross-border capacities at the transmission systems connecting points. The primary allocation of capacities is carried out by the TSO through electronic auctions on an online reservation platform – in line with the Slovenian rules on terms and conditions for capacity allocation mechanisms at interconnection points of the transmission system through auction, congestion management procedure, and capacity trading on the secondary market. In case of severe energy crisis, export of natural gas may be restricted.

In the absence of oil pipelines, there are no sector-specific rules governing the import and export of oil. Cross-border sales are agreed bilaterally between the parties and there is no particular state-governed system for carrying out these transactions. In the event of disruptions and instability of oil supplies, certain limitations may be imposed on the export of oil pursuant to the decree on emergency procedures in the event of disruptions and instability in the supply of oil and petroleum products.

7.2. Transportation

Pursuant to Article 19 of the GSA, the transmission of natural gas is performed as an obligatory public service by virtue of a concession. The TSO is the company Plinovodi d.o.o., owned by the holding company Plinhold d.o.o. in which the state is one of the shareholders. The operation of the system is governed by the network code for the natural gas transmission system (Network Code), whereas the network fees are calculated in line with the act on the methodology for determining network charges for the natural gas transmission system.

For the construction and operation of the natural gas transmission system (besides the building permit and other administrative permits pertaining to construction), a concession issued by the Government is required. Pursuant to Article 24 of the GSA, the transmission system pipelines have to be owned by the TSO.

7.3. Land Rights

For the construction of pipelines, a building permit is required. After the construction and before the start of operations it is obligatory to obtain the operating permit – confirming that the pipeline and the accompanying infrastructure have been built in accordance with the building permit. Depending on the scale and specifics of the pipeline, several other administrative approvals may be required, such as the environmental permit or allowances under the Water Act or under the decree on waste management.

Pursuant to the Spatial Management Act, the state or a municipality may, for adequate compensation, expropriate the landowners or limit their ownership rights in the interest of the public good, under the condition that such measures are necessary and proportionate. If the construction of pipelines is in the interest of the public good and if these conditions are met, the land necessary for the construction of pipelines may be expropriated.

7.4. Access and Integration

The GSA provides for regulated third-party access to the transmission system. Conditions for the access are further defined in the network code in which the TSO sets out clear and efficient procedures and tariffs for non-discriminatory access of producers, storage facilities, LNG plants, and industrial customers to the transmission system.

The transmission network consists of four major pipelines. Through connection points, these pipelines are connected to the distribution systems of 16 distribution system operators (DSO) which distribute gas to 86 local communities and more than 135,000 end customers. Cooperation between the TSO and the DSOs is governed by the GSA and the network code. The latter sets out the conditions for the connection of the distribution system to the transmission network (i.e., technical conditions, conditions pertaining to the stability of the system, and criteria for the economic viability of the connection) and duties of the TSO and DSOs regarding the balancing of the transmission network.

The Slovenian natural gas transmission system is connected to the transmission systems of Italy, Austria, and Croatia and is an integral part of the European gas transmission system. For the import and export of natural gas through connecting points between these transmission systems see Section 7.1.

7.5. Gas Transmission and Distribution

The natural gas transmission network is owned by the company Plinovodi d.o.o. The sole shareholder in this company is the holding company Plinhold d.o.o. with dispersed ownership – the state, state-owned companies, and several other companies being among the shareholders. The owner of the transmission network is also the TSO. The operation of the transmission system is governed by the GSA and the network code.

Pursuant to Article 58 of the GSA, the distribution of natural gas is performed as an optional local commercial public service. The DSO is appointed by the Slovenian Energy Agency. The DSO has to be either the owner or a tenant of the distribution pipelines. For the construction and operation of the pipelines, depending on their scale and specifics, several other administrative approvals may be required, such as the environmental permit or allowances under the Water Act or under the decree on waste management. Among the 16 DSOs are state-owned as well as entirely private-owned companies.

To the DSOs with less than 100,000 end customers, the unbundling provisions of the GSA do not apply.

The GSA provides for regulated third-party access to the distribution system. The DSO has to grant access to the network on an objective and non-discriminatory basis. Fees for accessing the distribution network are regulated and calculated in line with the methodology set out in the GSA.

8. Trading

8.1. Trading License

In line with the decree on the operation of the natural gas market (Uredba o delovanju trga z zemeljskim plinom), natural gas is traded on the balancing market and the open market. On the open market, the participants can freely negotiate the conditions of the contract. For the trading itself, no particular license is required, but as the transactions are done through the Virtual Trading Point (VTP), the traders have to register with the TSO before starting trading on the VTP. TSO charges the traders an annual cost of registering and a cost for every transaction with natural gas. The price list of services in the VTP is published on the TSO's website. The market is monitored by the Slovenian Energy Agency.

8.2. Products

Natural gas is being traded on the VTP which was established by the TSO in 2015. At the VTP it is also permissible to carry out a transaction with quantities of natural gas without the participant having a gas transmission contract. However, an appropriate transmission contract must be in place for the quantities involved in the transaction at both the entry and exit points for the accounting period to which the transaction pertains. Transactions at the VTP may be intra-day, day-ahead, or in advance.

9. Competition

9.1. Authorities

The authority responsible for the regulation of competition aspects in the oil & gas sector is the Slovenian Competition Protection Agency (CPA). Criteria for determining whether conduct is anti-competitive are set out in Articles 5 (anti-competitive agreements) and 8 (abuse of a dominant position) of the Prevention of Restriction of Competition Act (PRCA) which are Slovenian equivalents of Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU). Pursuant to Article 10 of the PRCA, the CPA also has authority to assess concentrations and to disapprove mergers or other changes in control over businesses if they significantly impede effective competition on the Slovenian market or in a substantial part of it, in particular as a result of the creation or strengthening of a dominant position.

9.2. Anti-Competitive Actions

The CPA may ex officio commence procedures to examine alleged restrictive agreements and abuses of a dominant position. When price rigidity or other circumstances indicate the possibility of a restriction or distortion of competition on the territory of the Republic of Slovenia, the agency may also conduct a study of an individual sector of the economy or certain types of agreements.

After carrying out the assessment procedure, the agency may issue a decision finding an infringement of Article 5 or Article 8 of the PRCA or Article 101 or Article 102 of the TFEU, and require the undertaking concerned to bring such infringement to an end. With the same decision, it may impose on the undertaking the obligation to take reasonable measures to bring an infringement and its consequences to an end, in particular through the disposal of a business or part of the undertaking's business, division of an undertaking, or disposal of shares in undertakings, transfer of industrial property rights and other rights, the conclusion of license and other contracts which may be concluded in the course of operations between undertakings, or ensuring access to infrastructure. Within its authorities, the CPA may also impose fines in case of PRCA violations.

In merger clearance procedures the agency shall within 25 working days (Phase 1) examine the merger notification and decide that either (i) the concentration does not fall within the scope of the PRCA; or (ii) the concentration does not raise serious doubts as to its compatibility with competition rules and is thus allowed; or (iii) the concentration raises serious anti-competitive doubts and shall thus be further assessed in Phase 2. After carrying out the assessment in Phase 2, the PCA

either issues a decision declaring the concentration compatible with competition rules or issues a decision declaring the concentration incompatible with competition rules and prohibits it. The criterion for the assessment is aligned with Council Regulation (EC) No. 139/2004. A decision in Phase 1 shall be issued within 25 working days, whereas a decision in Phase 2 shall be issued within 60 working days. In practice, the proceedings at the PCA may take longer than it is envisaged in the PRCA.

10. Stability Clause and Dispute Resolution

10.1. Stability Clause

No statutory stability clauses for oil & gas companies have been identified.

10.2. Compulsory Dispute Resolution Procedure

The Energy Agency is competent to decide disputes between the users of the natural gas pipelines, natural gas suppliers, TSO, and DSOs regarding the (i) access to the network; (ii) network fees; (iii) breaches of the network code; (iv) balancing obligations; (v) self-sufficiency provisions. Other than that, no compulsory dispute resolution procedures applying to the oil & gas sectors have been identified.

10.3. International Treaty Protection

In 1992, Slovenia became the successor to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, and in 1994 Slovenia ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States. Furthermore, the investments in these sectors are enhanced and protected also with bilateral investment treaties.

According to experience and the publicly available data, there are no special difficulties in litigating or seeking to enforce judgments or awards against government authorities or state organs. According to information from the media, a British investor has in 2021 initiated an arbitration proceeding against Slovenia over a dispute regarding the permits for the extraction of gas using hydraulic fracturing in Petisovci, claiming that Slovenia has breached its obligations under the UK – Slovenia bilateral treaty and the Energy Charter Treaty. Allegedly, the claimant claims compensation in the amount of EUR 500 million. ■

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