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EU and EnC

Market

Ambitious Reforms with the 'European Green Deal'

by Kosmas Karanikolas (Athens)

On 11 December 2019, the European Commission presented a comprehensive framework of actions, called the "The European Green Deal", intended to render the EU the first **climate - neutral region** in the world by 2050. The European Green Deal is scheduled to combine sustainable economic growth with environmental protection - through the sensible and efficient use of natural resources-, reversion of biodiversity loss and pollution reduction, thus safeguarding an ameliorated quality of life for EU citizens. The ultimate purpose of the measures embodied in the aforementioned package is the annihilation of net greenhouse gases' emissions until 2050 and the decoupling of economic growth from resource use.

The European Green Deal covers **all sectors of the economy**, notably transport, energy, agriculture, buildings, and industries such as steel, cement, ICT, textiles and chemicals. Regard being had to the attainment of the goals laid down, various measures are employed, including but not limited to those listed below. Firstly, in order to clearly provide predictability for investors and to ensure that the transition is irreversible, the Commission will propose the first European '**Climate Law**' by March 2020, enshrining the 2050 climate neutrality objective in legislation. Secondly, actions aiming at **phasing out of coal** and decarbonising gas in combination with augmentation of the energy produced from renewable sources are required to be taken by all Member States. Thirdly, the Commission plans to set a more ambitious target concerning the **reduction of greenhouse gas emissions** for 2030 and introduce adaptations of the climate-related policy instruments, such as extension of the EU Emissions Trading System to new sectors. Fourthly, **carbon pricing will be revised** so that consumers and businesses will be deterred from the use of commodities and energy produced from fossil fuels, while a **carbon border adjustment mechanism**, for selected sectors, will be established, purporting to diminish "carbon leakage" (i.e. transfer of carbon-generated energy or products from the EU to third countries with lower ambition for emission reduction, or replacement of EU products by more carbon-intensive imports). Fifthly, the Commission undertakes to launch a new "**circular economy action plan**" which will prioritise reusing materials before recycling them and set minimum requirements to prevent environmentally harmful products from being placed on the EU market, while it remains committed to rigorously enforce the legislation related to the Energy Performance of Buildings. Sixthly, the Commission will adopt a so-called "**Farm to Fork Strategy**" that will focus on the diminishment of chemical pesticides', fertilisers' and antibiotics' use. Finally, all the above described actions will be supplemented by incentives to mobilise research and foster innovation in these fields.

New Finance within the European Green Deal

by Kosmas Karanikolas (Athens)

On 14 January 2020, the European Commission demonstrated the **Sustainable Europe Investment Plan**, accompanied by the so-called **Just Transition Mechanism**, aimed at supplementing the recently introduced "European Green Deal" with adequate funding and ensuring a smooth transition to a resource-efficient, competitive and climate neutral economy, respectively. The attainment of the climate and energy objectives set out by the aforementioned European Green Deal necessitates additional investments of € 260 billion, on an annual basis, according to conservative calculations – an ambitious investment stream that has, further, to be sustainable over time.

In this regard, the drawn up Investment Plan encompasses the involvement of both the public sector and private funds, aspiring to attract investments cumulatively amounting to at least €1 trillion, in view of rendering the EU the first **climate-neutral bloc** in the world by 2050. More specifically, the above mentioned Investment Plan provides for the dedication of at least 25% of the EU's long-term budget to climate action, the budget' s figure being notably incremented through the diversion to it of 20% of the revenue from the auctioning of the EU Emissions Trading System. Furthermore, 30% of the resources of the InvestEU Fund, i.e. the entity that consolidated the European Fund for Strategic Investments and 13 other EU financial instruments, are scheduled to be dedicated to combating climate change. Moreover, the European Investment Bank (EIB) plans to double the appropriations intended to climate projects. As far as the private sector's contribution is concerned, the Commission undertakes the commitment to present a renewed **Sustainable Finance Strategy** in the third quarter of 2020 designed to encourage environmentally friendly investments and provide technical assistance to investors in selecting sustainable projects.

Given that the transition towards a climate neutral economy is a demanding challenge that requires a strong, solid policy response, insofar it presupposes extensive and even drastic structural changes in business models, skill requirements and relative prices, a **Just Transition Mechanism** is embodied in the drawn up Investment Plan, furnishing measures to appease the founded concerns on economic stagnation of the areas that are highly dependent on fossil fuels (coal, lignite, peat and oil shale). Taking into consideration that the transition towards low-carbon and climate-resilient activities can succeed only if it is conducted in a fair and inclusive way, the above described Mechanism will mobilise at least € 100 billion to provide targeted support to workers and generate the necessary investments that will allay regions and sectors that rely mainly on fossil fuels or carbon-intensive processes. Accordingly, the Just Transition Mechanism contains additional sources of funding from the EU budget as well as the EIB group to leverage the necessary private and public resources, in order to enable the financing of remedial actions, such as re-skilling

programmes and job creation in new economic sectors for workers currently engaged in carbon-related occupations, along with other measures serving the objective of rendering the EU climate neutral, like incentives for energy-efficient housing. Finally, it must be noted that, as the steps envisioned in the Just Transition Mechanism may be proven inadequate or ineffective, the Commission remains committed to work with the individual Member States and regions to help them introduce complementary (national or regional) transition plans.

EnC - European Green Deal in Western Balkans

by Kosmas Karanikolas (Athens)

On 14 January 2020, following the issuance of the "European Green Deal" which employs various measures aimed at rendering the EU a climate neutral region, the Secretariat of the **Energy Community**, i.e. an international organization under the auspices of which the EU collaborates with its neighbouring states for the purpose of establishing an integrated pan-European energy market, along with **Agora Energiewende**, i.e. an independent Berlin-based think tank and policy institute dedicated to supporting the transition to clean energy, proposed a package of measures to ensure Western Balkans' compliance with the objectives of the European Green Deal, namely the decarbonisation and transition towards clean energy coupled with the reduction of greenhouse gas emissions. It may be reminded that the aforementioned compliance with the European Green Deal objectives derives from both the Paris Agreement and the Energy Community Treaty along with those countries' intention to access the EU.

In this regard, each Western Balkan country (Albania, Bosnia - Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia) is anticipated to introduce a **national energy transition roadmap** within the next 3 years, aiming at the acceleration of the decarbonisation process in the energy sector, the latter being conducted in a cost-effective and socially acceptable manner that will not jeopardize the continuity and the security of energy supply. In general, the national energy transition plans are required to provide for specific deadlines for the implementation of the envisaged measures, encompass concrete, irrevocable commitments in view of attracting public and private investments, and identify areas where administrative or technical assistance may be demanded.

The actions embodied in such national plans must include, *inter alia* **measures to aggrandize energy efficiency**, such as incentives for energetic refurbishment of existing buildings and introduction of obligatory energy audits·**transposition of EU secondary legislation** dedicated to the reduction of emissions of CO_2 (*Air Quality Directive*) and greenhouse gas (*EU's Clean Energy Package*), along with **carbon pricing** and regionally coordinated price of CO_2 emissions, compatible with the EU Emissions Trading System (ETS)·**increment of renewable energy's share in power generation**, in place of the coal-fired plants·**transnational cooperation** aiming at the amelioration of the use of the highly interconnected transmission infrastructure within the Western Balkans and with the EU. The above described measures ought to be complemented with the improvement of the education and innovation in the energy field as well as actions to protect the individuals/regions which are most vulnerable to the transition.

As a final remark, the joint consultative document stresses the importance of the Western Balkans' taking advantage of the *political momentum* of the European Green Deal and final negotiations on the EU's budget that facilitates the offering of financial, administrative or technical support from the EU and individual Member States, safeguarding a just transition.

November Infringements Package

by Andriani Kantilieraki (Athens)

On 27 November 2019, the European Commission published the November package of infringement decisions, by virtue of which legal action against Member States for failing to comply with their obligations under EU energy law is pursued. With the November package, the Commission intends in regards to certain cases to move forward to the second stage of legal procedures, i.e. reasoned opinions against a number of Member States for not meeting EU rules.

In more detail, the Commission sent on the aforementioned date reasoned opinions to several member states as follow: a reasoned opinion was sent to Poland on the grounds that their national rules do not comply with the Security of Gas Supply Regulation (infringement n. 20172155), mainly because the Polish legislation imposes certain gas storage obligations on undertakings importing gas to Poland, which are deemed inconsistent with the EU law provisions, such as proportionality, non-discrimination and not unduly distorting competition or hampering the functioning of the internal market. Furthermore, in regards with radioactive waste management, the Commission addressed reasoned opinions to Belgium (infringement n. 20182013) and Spain (infringement n. 20182019) for failing to adopt an appropriate national programme in ensuring a high level of safety and management in compliance with certain requirements of the Spent Fuel and Radioactive Waste. The Commission further sent reasoned opinions to Malta (infringement n. 20182048), Portugal (infringement n. 20182049), Cyprus (infringement n. 20182049) and Greece (infringement n. 20182043) (following earlier letters of formal notice) and initiated the first step of infringements proceedings (letters of formal notice) to Belgium (infringement n. 20192300), Austria (infringement n. 20192301), Spain (infringement n. 20192302), Estonia (infringement n. 20182041) and Hungary (infringement n. 20182047) for shortcomings in the full and complete transposition of the Basic Safety Standards Directive, which modernises and consolidates the EU radiation protection legislation. Lastly, the Commission sent a letter of formal notice to Belgium for failing to fully transpose EU rules reinforcing the sustainability of biofuels, thus ensuring that the EU will meet its greenhouse gas emissions reduction targets.

In any case, the Member States are required to formally respond to the Commission; Otherwise the Commission may decide to move to the next stage of the infringement process, i.e. to refer the case to the Court of Justice of the EU.

ACER Urges Market Participants to Address Incorrect Reporting Issues under REMIT

by Maria Ioannou (Athens)

On 10 January 2020, the European Union Agency for the Cooperation of Energy Regulators (ACER) issued a news announcement reminding the EU energy market participants with an obligation to report data under EU Regulation No 1227/2011 on wholesale energy market integrity and transparency (REMIT) for the purpose of deterring market manipulations, that the responsibility for the completeness, accuracy and timely submission of the data to the Agency falls upon them. More specifically, the Agency, as the competent authority for reviewing the data submitted by market participants, reiterated the need for MPs to use only one reported Energy Identification Code (EIC) type X when entering into transactions that are reportable according to the REMIT Regulation. This code is also to be registered in the Centralised European Register of Market Participants (CEREMP) and on the list managed by the central issuing office (ENTSO-E). ACER urges the MPs to ensure their compliance with this rule by 30 June 2020, after which period ACER will be activating validation rules following which, all reported data records containing EIC codes as identifiers of MPs that are not present in the CEREMP will be rejected. The non-compliant codes are also to be reported to National Regulatory Authorities and Registered Reporting Mechanisms (RRMs). Although in principle ACER prefers to resolve data quality issues by cooperating with the reporting parties, enforcement action will however be initiated in collaboration with the respective National regulatory Authority in case of repetitive submission of data that is not in line with the provided guidance.

On a separate note, ACER has decided to provisionally suspend, effective immediately, the processing of pending applications for the registration of REMIT reporting parties (Registered Reporting Mechanisms, RRMs). This follows as a consequence of lack of sufficient human resources, however, according to ACER there is also a limited need for additional RRMs since the market participants can already choose from 120 RRMs, that is, a number close to the number of RRMs envisaged by the European Commission when proposing the introduction of the REMIT.

Electricity

Establishment of the Regional Security Coordinator in Thessaloniki

by Evridiki Evangelopoulou (Thessaloniki)

On 20 December 2019, the four electricity Transmission System Operators (TSOs) of the South-East Europe and Greece-Italy Capacity Calculation Regions agreed to establish a Regional Security Coordinator (RSC) located in Thessaloniki, Greece. The new RSC company will have the form of Societe Anonyme (S.A.) with shareholders the aforementioned TSOs and will provide both SEE and GRIT CCRs with coordinated capacity calculation, development of the common grid model, coordinated security analysis, coordination of outage planning process, as well as with short-term and mid-term adequacy forecasts. Moreover, the RSC located in Thessaloniki will contribute to the regional cooperation and the strengthening of system and market operations in the area.

Judgment of ECJ in Case C-523/18

by Leonidas Voulgaris (Athens)

On 19 December 2019, the European Court of Justice (ECJ) issued judgment under request for a preliminary ruling, concerning the interpretation of Directive 2009/72/EC of the European Parliament and of the Council.

In this ruling under Case C-523/18, the preliminary request was submitted by the National High Court of Spain in the proceeding between Engie Cartagena SL and the Ministry of Ecological Transition of Spain, case in which many other energy companies intervened. The preliminary ruling of the Court concerned the legality of a mandatory contribution established by Spanish law (Decree-Law 14/2010) according to which some electricity generating undertakings were required to pay a certain percentage to a National Authority, named IDEA, for the purpose of financing the national energy efficiency action plan and the correction of the tariff deficit in the electricity sector. According to Article 3(2) of Directive 2003/54/EC and Article 3(2) of Directive 2009/72/EC "…Member States may impose on undertakings operating in the electricity sector, in the general economic interest, public service obligations which may relate to security, […] and environmental protection, [...] Such obligations shall be clearly defined, transparent, non-discriminatory, verifiable and shall guarantee equality of access for EU electricity companies to national consumers…". The referring Spanish court to its preliminary application had doubts as to whether that mandatory contribution complied with the principles laid down in the above-mentioned provisions of European Law and questioned, in particular, whether this mandatory contribution set by Spanish law constituted a public service obligation imposed by the State in a transparent, non-discriminatory manner and which guarantees equality of access for companies to consumers. Thus the main question raised to the ECJ was the definition of the term "public service obligations" and subsequently, whether Article 3(2) of Directive 2009/72 should be interpreted as meaning that a financial contribution imposed on certain electricity generating undertakings for the purpose of financing savings and energy efficiency plans constitutes a public service obligation falling within that provision.

The ECJ ruled that since the contested mandatory contribution does not impose any requirement on the undertakings concerned which would restrict their freedom to act on the electricity market; such a contribution cannot come within the concept of 'public service obligations' for the purposes of Article 3(2) of Directive 2009/72. In particular, by the imposition of that contribution, those

undertakings are in no way required to supply certain goods or services which they would not have supplied, or which they would not have supplied to the same extent or under the same conditions, if they were considering only their own commercial interest. In conclusion the Court ruled that Article 3(2) of Directive 2009/72/EC must be interpreted as meaning that a financial contribution imposed on certain electricity generating undertakings for the purpose of financing savings and energy efficiency plans managed by a public authority does not constitute a public service obligation falling within that provision. It must be noted that, according to the Court, the disputed mandatory contribution is different from the national obligations at issue in the cases giving rise to the judgments of 20 April 2010, *Federutility and Others* (C-265/08, EU:C:2010:205), of 21 December 2011, *ENEL* (C-242/10, EU:C:2011:861), and of 7 September 2016, *ANODE* (C-121/15, EU:C:2016:637) where the disputed measures determined the arrangements for the supply of goods or services by the undertakings concerned.

Judgment of ECJ in Case C-376/18

by Leonidas Voulgaris (Athens)

On 12 December 2019, the European Court of Justice (ECJ) issued judgment under request for a preliminary ruling, concerning the interpretation of Directive 2009/72/EC of the European Parliament and of the Council.

In this ruling under Case C-376/18, the preliminary request was submitted by the Supreme Court of the Slovak Republic in the proceeding between the company Slovenské elektrárne A.S. and the Tax Administration of Slovakia. The preliminary ruling of the Court concerned the legality of the national tax legislation establishing a special levy on the revenue of undertakings in regulated sectors such as the electricity supply sector and established by Slavic Law No 235/2012. Main objective of this law was according to national jurisdiction rulings, the reduction of the budget deficit and the involvement of the undertakings operating in regulated activity sectors in consolidating the public finances.

The main question raised before the ECJ by the referring National Supreme Court was whether the contested national Law No 235/2012 was compatible with the requirement of transparency, the principle of non-discrimination and the principle of equality of access for EU electricity undertakings to national consumers, which are referred to in Article 3 of Directive 2009/72 as according to law's provisions, domestic regulated entities were taxed on a broader base as compared with foreign regulated entities.

The ECJ ruled that according to the file committed, the special levy established by the Slavic law had the character of a general tax measure, and, in particular, of a direct tax on the total revenue of undertakings in the economic sectors referred to in that law. Therefore that levy, firstly pursues a budgetary objective, with a view to reducing the government deficit and addressing the economic crisis, secondly, applies to undertakings operating in regulated activity sectors in general, and not only in the energy sector, thirdly, it does not apply to the supply of electricity as such but taxes the comprehensive income of the regulated entity concerned. The ECJ pursued on its ruling by stating that since Directive 2009/72 is not a measure for the approximation of the Member States' fiscal provisions, the directive, and, in particular, Articles 3(1) to (3) and (10) thereof, do not apply to national legislation such as that in the main proceedings, establishing a special levy on the revenue of the undertakings referred to in that legislation (see, by analogy, judgment of 7 November 2019, *UNESA and Others*, C-80/18 to C-83/18). In that regard and in absence of any other provision of EU law submitted by the referring Court, the ECJ denied the examination of the special levy in the light of the principle of non-discrimination.

Judgment of the ECJ in Joined Cases C80/18 and C 83/18

by Nikoleta Nikolaou (Athens)

On 7 November 2019, the decision of the European Court of Justice concerning common rules for the internal market in electricity and the implementation of Directive 2009/72/EC, was published pursuant to a request for a preliminary ruling under Article 267 TFEU by the Supreme Court of Spain in joined Cases C‑ 80/18 and C‑ 83/18. More specifically, the requests have been made in proceedings between (i) Asociación Española de la Industria Eléctrica (UNESA) and Endesa Generación SA, of the one part and Iberdrola Generación Nuclear SA and the Administración General del Estado (General administration of the State, Spain), of the other, and (ii) Endesa Generación SA and Iberdrola Generación Nuclear, of the one part and the Administración General del Estado, of the other, concerning the lawfulness of the taxes on the production of spent nuclear fuel and radioactive waste from nuclear power generation and on the storage of such nuclear fuel and waste in centralised facilities ('the taxes on nuclear energy').

In addition, the referring court states that the order the annulment of which is sought was adopted on the basis of the Energy Tax Law which provides for those taxes on nuclear energy. That court states that, in order to adjudicate on whether that order is lawful, it must determine whether the obligations provided for by that Law are contrary to EU law, and more specifically to the rules and principles governing the electricity market. It considers that the taxes on nuclear energy form part of energy taxation, although they do not tax the production of energy itself, but rather the fuel used in its production and the waste generated. Since the levies from those taxes relate to the production and storage of that fuel and the derived nuclear waste, it considers that they relate to the production of electricity itself and, therefore, affect electricity-generating undertakings.

In conclusion, the Court ruled that the principle of non-discrimination, as provided for in Article 3(1) of Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC must be interpreted as not precluding national legislation establishing taxes on the production and storage of

nuclear fuel and waste, such as those taxes at issue in the cases in the main proceedings, which apply only to electricity-generating undertakings using nuclear energy and the main objective of which is not to protect the environment but to increase the amount of revenue for the electricity financial system. Moreover, 3(2) of Directive 2009/72 must be interpreted as not precluding national legislation, such as that at issue in the cases in the main proceedings, when the environmental objective and the characteristics that define environmental taxes provided for in that legislation are not specified in the statutory provision having legislative force in that legislation.

Oil & Gas

Judgment of the ECJ in Case C 236/18

by Nikoleta Nikolaou (Athens)

On 19 December 2019, the decision of the European Court of Justice concerning common rules for the internal market in electricity and the implementation of Directive 2009/73/EC, was published pursuant to a request for a preliminary ruling under Article 267 TFEU by the Cour de Cassation (France) in case C‑ 236/18.

More specifically, the request has been made in proceedings between GRDF SA, operator of the natural gas distribution system in France, on the one hand, and Eni Gas & Power France SA ('Eni Gas') and Direct énergie, natural gas suppliers, the Commission de régulation de l'énergie (France) (the Energy Regulatory Commission, 'CRE') and the procureur général près la cour d'appel de Paris (Public Prosecutor attached to the Court of Appeal Paris) (France), on the other, concerning contracts for the transmission of gas which have the effect of passing on to suppliers the risk of unpaid bills by final customers and the burden of customer management.

The Cour de Cassation (Court of Cassation, France) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling: "Is Directive 2009/73 …, and in particular Article 41(11) thereof, to be interpreted as requiring that a regulatory authority, when settling a dispute, must have power to issue a decision which applies to the whole of the period to which the dispute relates, regardless of the date on which the dispute arose between the parties, in particular by drawing the consequences of the non-conformity of a contract with the provisions of the directive by means of a decision taking effect as regards the whole of the contractual period?" By its question, the national court asks, in essence, whether Directive 2009/73 must be interpreted as precluding that the effects of a decision of a dispute settlement authority, referred to in Article 41(11) of that directive, extend to the situation of the parties to the dispute before that authority which prevailed between them before the emergence of that dispute, inter alia, as regards a contract for the transmission of natural gas, by requiring a party to that dispute to bring that contract into conformity with Union law for the entire contractual period.

In conclusion, the European Court of Justice, ruled that the answer to the question referred is that Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC must be interpreted as not precluding that the effects of a decision of a regulatory authority, referred to in Article 41(11) of that directive, extend to the situation of the parties to the dispute before that authority which prevailed between them before the emergence of that dispute, inter alia, as regards a contract for the transmission of natural gas, by requiring a party to that dispute to bring that contract into conformity with Union law for the entire contractual period.

Infrastructure

New list of Energy Projects of Common Interest

by Evridiki Evangelopoulou (Thessaloniki)

On 31 October 2019, the European Commission issued a press release regarding the adoption of the 4th list of Projects of Common Interest (PCIs) for a connected European energy grid. PCIs are cross border infrastructure projects which connect the energy systems of EU Member States. The main goal of the projects is to contribute to the achievement of European Energy Policies and climate objectives, such as affordable, secure and sustainable energy for all citizens and the long-term decarbonisation of the economy. PCIs have a major effect on energy markets and market integration in at least two EU countries, they boost competition in energy markets and promote the EU's energy security by diversifying sources, while helping EU's climate and energy goals by integrating renewables.

It is noteworthy that electricity and smart grids account for more than 70% of the projects, reflecting the increasing role of renewable electricity in the energy system. In regards with the adopted list, as far as the Balkans are concerned, a cluster of infrastructure development and enhancement projects is announced, including the following PCIs: Interconnection between Greece and Bulgaria (currently known as "IGB") between Komotini and Stara Zagora and compressor station at Kipi, Rehabilitation, modernization and expansion of the Bulgarian transmission system, Gas interconnection between Bulgaria and Serbia (currently known as "IBS") and LNG terminal in northern Greece. Last but not least, in order to increase storage capacity in South-Eastern Europe, among others, the following PCIs have been examined (but not yet finalised): Chiren (Bulgaria) underground gas storage (UGS) expansion, South Kavala UGS facility in Greece and metering and regulating station, as well as Depomures storage in Romania and Sarmasel underground gas storage in Romania.

Competition & State Aid

Commission Approves Batteries Important Project of Common European Interest for seven Member States (SA.54793, SA.54801, SA.54794, SA.54806, SA.54808, SA.54796 and SA.54809)

by Viktoria Chatzara (Athens)

On 9 December 2019, the European Commission announced its decision to approve an Important Project of Common European Interest (IPCEI) jointly notified by Belgium (case No. SA.54793), Germany (case No. SA.54801), France (case No. SA.54794), Italy (case No. SA.54806), Poland (case No. SA.54808), Sweden (case No. SA.54796) and Finland (case No. SA.54809), and concerning support to research and innovation in the common European priority area of batteries. According to the information provided, the project, which is expected to be completed by 2031, will involve 17 direct participants from the above mentioned Member States, mostly industrial actors, some of which will develop their activities in more than one states, which will cooperate with each other and with over 70 external partners, including SMEs and public research organizations across Europe. The aim of the state aid granted, which is expected to reach up to € 3.2 billion and to trigger an additional amount of € 5 billion in private investments, is to support the development of highly innovative and sustainable technologies for lithium-ion batteries that last longer, have shorter charging times, are safer and more environmentally friendly that the currently available ones, as well as innovation aiming at enhancing the environmental sustainability in the battery value chain, reducing the CO2 footprint and the waste generated, developing environmentally friendly and sustainable dismantling and recycling. The participants are expected to focus their work on four main areas: (1) development and enhancement of raw and advanced materials, (2) development of innovative cells and modules, (3) development of innovative battery systems, and (4) design of safe and innovative repurposing, recycling and refining processes.

The Commission assessed the proposed project under the applicable EU state aid rules and, specifically, its Communication on Important Projects of Common European Interest, taking also into account that the Commission had identified batteries as a strategic value chain where investment and innovation needed enhancement, launched at the end of 2017 a "European Battery Alliance" with Member States and industrial actors, and adopted in May 2018 a Strategic Action Plan for Batteries. According to the Commission, the battery value chain is a strategic one with respect to clean and low emission mobility, while the contemplated project has a wide scope, covering the whole chain and involving significant technological and financial risks, thus rendering public support necessary to provide incentives to companies. The positive results of the projects are anticipated to be widely shared throughout Europe, contributing to the development of an ecosystem in the battery sector at EU level. Furthermore, the implementation of the project is designed to be monitored by dedicated government structures from the participating Member States, and the Commission will be also attending the relevant meetings. Taking the above into account, the Commission concluded that the conditions set in its Communication on IPCEI were met and, thus, the notified scheme by the seven Member States is in line with EU State aid rules. To be noted that the non-confidential text of the relevant decisions was not been published yet.

Commission Approves Bulgarian Aid Scheme for Waste-to-Energy High-Efficient Cogeneration Plant (SA.54042)

by Viktoria Chatzara (Athens)

On 25 November 2019, the Commission announced its decision not to raise objections to a notified by Bulgaria state aid scheme for the support of the construction and operation of a high-efficient cogeneration plant to in Sofia, which will be producing heat and electricity using fuel deriving from unrecyclable municipal waste, with a capacity of approximately 55 megawatts (MW) of heat and 19 MW of electricity (case No. SA.54042). The waste that will be used in said plant, has already been subject to preliminary treatment and cannot be recycled further; thus, if not used for energy recovery, it would go to landfill. The construction (expected to be completed by 2023) and operation of the plant is the third phase of a more wide environmental project aimed at improving waste treatment in the Sofia region, the first phase of which involved (among others) the construction of a new landfill, a new anaerobic digestion with energy production and composting installation, and the second phase concerned the improvement of recycling and the establishment of a mechanical biological treatment facility producing unrecyclable municipal waste as a main product. The plant will be set up by a company fully owned by Sofia municipality, and will be connected to the Sofia district heating network. The contemplated state aid will be granted in the form of two separate measures, including (a) a direct grant of ca € 90.8 million financed by EU Structural Funds managed by Bulgaria, and (b) a loan of approximately € 3 million, granted to the company setting up the installation by the Sofia municipality at a preferential rate.

The Commission evaluated the contemplated state aid scheme under the applicable State aid rules and, namely, its 2014-2020 Guidelines on State Aid for Environmental Protection and Energy. With respect to the heat and electricity cogeneration, said Guidelines specifically provide that state support may be granted, provided that the project at hand meets the "high-efficient cogeneration" criteria set out in the 2012 Energy Efficiency Directive. In this respect, and concerning the notified aid scheme for the Sofia plant, the Commission concluded that the combined heat and electricity production will enable primary energy saving of 46,5% when compared to a scenario under which heat and electricity would be produced separately and, as such, the project in question was found to meet the criteria set in the Guidelines. Furthermore, the support measures were found to be necessary, in the sense that the project would not be carried out without public support, and proportionate, since the project is expected to deliver a reasonable rate of return. Taking the above into account, the Commission decided to approve the contemplated state aid scheme. To be noted that the non-confidential version of the decision has not been published yet.

Commission Approves € 92 million Slovak Support for a Mining Company (S.A. 55038)

by Paraskevi Res (Athens)

On 28 November 2019, the European Commission authorised a € 92 million Slovak public aid package for the mining company Hornonitrianske bane Prievidza (HBP) to alleviate the social and environmental impact of closing its mining units in Handlová and Nováky by 2023. The Commission assessed the measure in the light of Council Decision 2010/787/EU (State aid to support the closure of uncompetitive coal mines) in order to alleviate the social and environmental impact resulting from the closure. The aid provided by the Commission will ease the closure process by providing financial support to workers who would lose their jobs due to the closure of the mines by funding redundancy payments required under national labour and social security law and securing mine shafts and re-cultivate land after the mine closures.

Commission Approves € 57 million Croatian Support for Modernisation of Zagreb's District Heating System (S.A. 53628)

by Paraskevi Res (Athens)

On 28 November 2019, the European Commission authorised the Croatian project to provide financial support for the modernisation of an "energy efficient" district heating system in the city of Zagreb, Croatia. The investment aid, amounting to € 57 million, will support the modernisation of the hot water network through the replacement of deteriorated pipelines by the aid beneficiary (HEP District Heating) without unduly distorting competition in the Single Market. The project will also be partially financed by EU structural funds, will lead to significant energy savings, notably by reducing heat losses, water refill losses and network maintenance costs and will contribute to the implementation of the green European strategy by increasing the energy efficiency and decreasing the emission of harmful and greenhouse gases.

ALBANIA

Electricity

Criteria to Decide Limits Based on the Requirements for Generation Connection Guide

by Manuela Cela (Tirana)

On 20 November 2019, the Albanian Energy Regulatory Authority (ERE) issued its decision No.185, for the commencement of the procedures for approving the “Criteria to decide limits based on the requirements for Generation connection guide”, based on the facts that: a) Albania is a member of the Energy Community since 01.07.2006; b) Transposition, as well as implementation of network codes and guidelines issued by European institutions is one of the main activities of the work of the relevant institutions in Albania; c) ERE shall specify the criteria for establishing restrictions as defined in Sections 62 and 63 of the Regulation published by ENTSO-E; d) OST sha is a member with full rights of ENTSO-E; and e) this Regulation is approved by ERE as a duty deriving from European Commission Regulation 2016/631 of 14 April 2016.

Outsourcing a part of the Fibre Optic Infrastructure

by Manuela Cela (Tirana)

On 24 July 2019, OST sh.a., with letter under Prot. no.5005, requested for ERE’s opinion regarding the use of the fibre optic infrastructure. According to Article 55, paragraph 4 of Law 43/2015 "On the Electricity Sector", depending on the possibilities, a part of the fibre optic infrastructure and/or communications network capacity of high speeds can be used without damaging other networks within the framework of the relevant legislation, in accordance with the opinion of ERE. The TSO in the context of this correspondence states that: a) the commercial use or utilization of these capacities can be realized completely separated by guaranteeing the best international network standards transmission of data for the needs of the power grid; b) the investments made in the transmission network have been fully complied with technical and legal requirements in force at the time of their implementation; c) OST sh.a. is a full member of ENTSO-E and in these circumstances the safety of operation of the Albanian power system must take into account all the obligations which the latter including regulations and Operating Instructions and d) the use of free capacities is a secondary goal of OST sh.a., but their use will lead to increase the company revenue and reduced operating costs.

Based on these admissions, the Albanian Energy Regulatory Authority (ERE) issued its decision No.194, dated 03.12.2019 and decided to express a positive opinion on the proposals of OST sh.a., regarding the outsourcing of the fibre optic infrastructure for third parties, keeping in mind to not violate the activity of OST sh.a., concerning the security and sustainability of power system including cyber security and the costs of carrying out this activity shall not affect the electricity transmission tariff and the costs of related to this service to end customers.

Regulation for Standardising Load Profiles

by Manuela Cela (Tirana)

On 12 December 2019, the Albanian Energy Regulatory Authority (ERE) issued its decision No.202 on the initiation of procedures for approval of the Regulation for standardised load profiles. In more detail, OSHEE sh.a., based on the Article 69/f, of Law no. 43/2015 "On the Electricity Sector", as amended, compiles standardized load profiles for certain categories of customers, in case of measurement data, needed for the calculation of imbalances, not available. In order to fulfil this obligation by OSHEE sh.a, ERE with the assistance and consultancy of the Energy Community Secretariat and USAID, has worked for drafting the Regulation for standardising load profiles for certain categories of customers, where the measurement data needed to calculate the imbalances, are not available. By letter no. 525, dated 02.09.2019, ERE has forwarded to OSHEE sh.a for giving opinions and comments until 20 September 2019, the draft of this regulation along with ERE and USAID comments. OSHEE sh.a., with letter no. 525/1, dated 23.09.2019, has forwarded its comments to ERE regarding the draft regulation of standardized profiles, as well as presenting system problems and difficulties for the definition and implementation of standardized profiles of such loads and as a result the aforementioned decision was published.

BiH

Oil & Gas

Secretariat Sends Reasoned Opinion regarding State Guarantee for the Tuzla 7 Project

by Aleksandar Mladenovic (Belgrade)

On 8 March 2019, the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina approved a guarantee for a € 614 million loan from the Export–Import Bank of China's to state-owned power utility Elektroprivreda BiH to build a new, 450 MW unit of the Tuzla coal-fired power plant.

The Energy Community Secretariat (Secretariat) has repeatedly called on BiH authorities not to approve the guarantee, since it represents illegal state aid in accordance with the Energy Community Treaty (Treaty), whose signatory BiH is. Namely, this guarantee has been found by the State Aid Council of BiH not to contain elements of State aid, while in its Opening letter to BiH from 26 March 2019 the Secretariat made its preliminary conclusion that the State Aid Council's assessment does not comply with the state aid acquis and that the guarantee for the Tuzla 7 project constitutes state aid in the sense of Article 18(1)(c) of the Treaty. Also, under the Treaty, BiH must follow EU rules on subsidies in the energy sector. In this respect, in most cases state guarantees must not exceed 80% of the value of the loan, while the proposed guarantee for Tuzla 7 project, however, covers 100% of the loan, plus interest and other associated costs.

By sending an Opening Letter, on 26 March 2019, the Secretariat initiates a preliminary procedure, the purpose of which is to give BiH the opportunity to react to the allegation of non-compliance with Energy Community law and rectify the subject issues of non-compliance in the period of two months. On 16 January 2020, the Secretariat sent the Reasoned Opinion to BiH for non-compliance with the State aid acquis to follow up on its Opening Letter. In the Reasoned Opinion it reiterates its view that by the State Aid Council of BiH is incorrectly assessing the State aid character of a guarantee granted for a loan to the Tuzla 7 project.

Depending on the reply from Bosnia and Herzegovina, the Secretariat may submit the case to the Ministry Council for a decision on the non-compliance of Bosnia and Herzegovina with Energy Community law. Having in mind that Mirko Sarovic, the Minister of Foreign Trade and Economic Relations at the Council of Ministers of BiH is of the opinion that the new unit in the Tuzla coal power plant will be built regardless of the procedures launched by the Secretariat and that the Secretariat is wrong, insisting that the financing of this investment is in line with the BiH regulatory framework, the outcome of this issue is uncertain.

GREECE

Market

Greek National Plan Approved

by Mira Todorovic Symeonides (Athens)

On 23 December 2019, the amended Greek National Plan for Energy and Climate was submitted to the European Commission. This is the first National plan which regulates all energy sectors adopted in Greece which was prepared to comply with the respective EU requirements. It was subject of vivid public consultations which lasted from 03.11.2018 to 07.12.2018 regarding the first draft Plan (submitted to the European Commission in January 2019) and from 28.11.2019 until 16 December 2019, regarding this amended National Plan.

On 31 December 2019, the Plan was approved by the Government and published in the OJ B' 4893/2019.

The Plan defines the energy and climate goals of Greece until 2030 as well as its priority policies and the respective implementation measures which should reach the optimal mix of development and reform of the energy system until 2050, so that the framework for the energy and climate strategy of the country for the period from 2030 until 2050 may be determined. It addresses all 5 dimensions of the EU Energy Union: Climate action, decarbonising the economy; Security, solidarity and trust; A fully integrated internal energy market**;** Energy efficiency; and Research, innovation and competitiveness. It first analyses the current level and achievements, proceeding

Some of the highlight of the Plan are: to achieve climate neutrality until 2050 in compliance with the EU Green Deal; to phase-out all of Greek coal-fired electricity production units by 2028; secure and complete significant investments in energy infrastructure, particularly grids, which is expected to result from the privatisation of the energy companies such as the Public Natural Gas Company (DEPA) and the electricity distribution network operator (DEDDIE); increase the participation of electricity from RES sources in the total consumption is planned to be reach 35% until 2030 (which is double today's consumption); reduce by 2030 the total consumption of energy to level of 2017; and to promote development of RES hybrid plants on the Non Interconnected Greek islands, smart mattering and grids, storage of electricity, use of gas in general and use of RES in transport.

Liberalisation of the Energy Market Framework

by Mira Todorovic Symeonides (Athens)

On 3 December 2019, Law 4643/2019 on the liberalisation of the Greek energy market, the modernisation of the Public Power Corporation (PPC), the privatisation of the Public Natural Gas Company (DEPA) and the support of the renewable energy sector (RES) was published in the *Official Journal* (A'193/2019). The law introduces significant changes to the energy industry.

Regarding **the electricity market**, the main amendments concern: the commencement of operations of the energy derivatives and intraday markets within the Hellenic Energy Exchange (planned for 2020); the implementation in Greece of EU Regulation 1227/2011 on Energy Market Integrity and Transparency, which includes provisions on the competency of the Greek Regulatory Energy Authority (RAE) to monitor the market and impose penalties for the violation of said Regulation, to be calculated according to methodology to be developed by RAE; and the amendments regarding the universal service obligation, which will from now on and in case of lack of other interested parties, be provided not solely by the PPC but by the five suppliers with the largest market shares during the preceding month (which includes the PPC having approximately 70% share of the market).

With regard to **the RES market**, the new law sets out that RES projects, which do not wish to receive state aid, may participate directly in the electricity spot market and receive the respective market prices for the electricity produced. Further, the new law sets out the possibility of different remuneration for RES plants with a capacity exceeding 250MW or for conglomerates of RES plant connected to the grid at the same connection point with a combined capacity exceeding 250MW. For such plants, individually agreed prices may be approved by the Ministry of Environment and Energy – without obligatory participation in the auction procedures – if the European Commission has previously approved the respective state aid. The new law also sets out provisions on the construction of solar photovoltaic plants on land of high agricultural productivity.

Regarding the licensing procedure for **hybrid power plants** on non-interconnected islands, the new law authorises the Ministry of Environment and Energy to decide on the conditions and procedures according to which state aid will be available for such plants, as well as on the conclusion of the respective agreements and on any other related matter, as necessary. The state aid amounts will no longer be proposed by applicants and approved by the RAE.

Under the new law, **DEPA** will be spun-off into three distinct undertakings, two of which will be completely privatised. This transformation will significantly alter DEPA's unbundling and privatisation scheme, which was adopted under Law 4602/2019 on 9 March 2019 (ie, before the elections and respective reconfigurations in Parliament and government). These undertakings will be DEPA Infrastructure, DEPA International Projects and DEPA Commercial. All DEPA Commercial and DEPA Infrastructure shares owned by the Greek state will be privatized. To this end, the Greek state transfers its participation in the aforementioned undertakings to the Hellenic Republic Asset Development Fund (HRADF). After the restructuring, HRADF will hold 65% of the total shares and Hellenic Petroleum (HELPE) will hold the remaining 35%.

Specifically, all of DEPA's distribution gas activities will be transferred to DEPA Infrastructure, including: its participation in EDA Attikis, EDA Thessalonikis – Thessalias and gas distributor DEDA; its distribution ownership rights; its fibre optic network; and its rights and obligations with respect to the development, design and implementation of projects for the infrastructure of distribution networks, including compressed natural gas projects and small-scale liquefied natural gas (LNG) projects. All international projects in which DEPA participates, either directly or through its subsidiaries (eg, any rights and obligations, quantity commitments in the interconnector pipeline between Greece and Bulgaria or the floating LNG gasification terminal in Alexandroupolis), will be transferred to DEPA International Projects.

On 9 December 2019 HRADF initiated the procedure **for privatization** of 100% shareholding in DEPA Infrastructure. As the shareholders of DEPA Infrastructure, HRADF and HELPE have entered into a memorandum of understanding to jointly sell their respective stakes in the company through an international tender process to be conducted by HRADF. The deadline for submitting expressions of interest is 14 February 2020.

Electricity

NOME Auctions Abandoned

by Mira Todorovic Symeonides (Athens)

On 18 November 2019, a Presidential Decree with legal content, regulating certain urgent matters such as the abandoning the electricity NOME auctions introduced by the Law 4389/2016, was enacted by the law 4638/2019 (OJ A 181/2019). The NOME auctions were quarterly electricity forward products' auctions, on which the Public Power Company (PPC) was selling the electricity term products with physical delivery to the alternative electricity suppliers, at the lower price from the prices on the mandatory pool electricity market. The purpose of this initiative is to reduce PPC's retail market share in the interconnected system from approximately 90% in 2016 to less than 50% in 2020. The general idea is the reform the market towards the Target Model, while the position of the alternative electricity suppliers would be sustained through their participation in the Energy Exchange, particularly on its Derivatives Market, on which initially the futures with physical delivery would be traded. However, at this moment there is certain time gap, since the NOME auctions were abandoned from 16 October 2020 while the derivatives market is expected to start operating some time in 2020.

Codification of the Grid Control Code for Electricity

by Maria Ioannou (Athens)

In November 2019, the Grid Control Code for Electricity (GCCE) was amended and consolidated as version 3.7, following Decision No. 944/18.11.2019 (OJ B' 4248/20.11.2019) of the Greek Regulatory Authority for Energy (RAE).

Indeed, RAE is the competent authority for issuing the GCCE which envisages the operation of the Greek grid and which is drafted by the Independent Power Transmission Operator (IPTO) and subject to public consultation. The GCCE currently in force has been issued by virtue of RAE Decision No. 57/2012 (OJ B 103/2012) and has been amended since then, that latest amendments being the aforementioned.

For this purpose, RAE had asked the IPTO to propose any amendments necessary for the market participation of new renewable energy stations as well as of the cogeneration of high efficiency heat and power whether in trial phase or in operation in accordance with Art. 19(3) of law 4414/2016. The IPTO proposed amendments that would allow for the provisions of law 4618/2019 and of Ministerial Decision on the Estimation Methodology regarding the Special Market Price (OJ B 3955/2016, as amended), to be incorporated in the GCCE. For this, the IPTO took into consideration the need for harmonization of the GCCE with the other codes (Electricity Transactions Code, Code for the Management of Renewable Energy Sources and Guarantees of Origin) and of the fact that the wholesale-market mechanisms are not factored in for the computation of the Special Market Price.

Among other amendments to the GCCE that IPTO proposed and RAE accepted, were (i) the obligation of the RES Aggregator of Last Resort and of DAPEEP to inform the IPTO without delay for any contract or representation they undertake with a RES or cogeneration of high efficiency heat and power station; (ii) the obligation of the Greek Energy Exchange to inform IPTO on the DAS monthly charges and energy levels so that the IPTO can estimate the weighted average market price; (iii) various information obligations imposed on the IPTO towards DAPEEP and the RES Aggregator of Last Resort; (iv) the method for the computation of production–demand deviations; (v) the provisions regarding the utility charges; and (vi) provisions regarding the transition capacity remuneration mechanism.

RAE also decided that certain GCCE provisions are to have effect starting from the day of execution of the Day-Ahead-Scheduling, for the day of allocation which coincides with the day of commencement of operation for the RES Aggregator of Last Resort, as concerns the participation of RES stations which receive sliding premium operational aid as well as the stations meeting the requirements of Art. 3(19) of law 4414/2016.

Financial Derivatives Energy Market Rulebook

by Konstantinos Ntallas (Athens)

On 5 November 2019, the Hellenic Energy Exchange (HeNeX) established the Financial Derivates Energy Market Rulebook and the first set of drafts for a number of Decisions as foreseen in the Rulebook. These Decisions are the following:

- Decision 1: Procedure for acquiring the Member capacity, Membership resignation and other Membership issues of the Financial Energy Market (Derivatives Market) of HEnEx.
- Decision 3: Members' professional competence in the Financial Energy Market (Derivatives Market) of HEnEx.
- Decision 4: Immediate imposition of measures against Members of the Financial Energy Market (Derivatives Market) of HEnEx.
- Decision 5: Electricity Futures Contract Specifications in the Financial Energy Market (Derivatives Market) of HEnEx.
- Decision 7: Cessation of admission or deletion of a series of Derivatives and suspension of trading on a Derivative in the Financial Energy Market (Derivatives Market) of HEnEx.
- Decision 8: Emergency trading procedures in the Financial Energy Market (Derivatives Market) of HEnEx.

According to the provisions of Article 15 (1) and (2) of Law 4425/2016, HeNeX may act as Market Operator and operate Energy Derivatives Markets following the approval of the Hellenic Capital Market Committee (HCMC), given that the provisions of Law 4514/2018, EU Regulation 600/2014 and the delegated Regulations, are met. This Rulebook, for which the HeNeX launched a Public Consultation from 19.07.2019 to 16.09.2019 in order to achieve maximum consensus with the prospective Members of the Energy Derivatives Market, shall be binding as of the publication in the Government Gazette of the HCMC decision approving the present Rulebook of the HeNeX and any of its amendments.

According to the Rulebook, access to the Markets for the purpose of conducting transactions is provided to Members, while the Membership is acquired after authorisation by HeNeX. HeNeX grants membership to Credit Institutions or Investment Firms and any person engaged in energy-related activity, provided that certain financial, organisational and professional competence requirements are met. Members have to comply with certain obligations, either general or financial. On top of that, Members have obligations relating to trading codes, namely to create and keep an Investor Trading Code, a Market Maker trading code, an Administration trading code and an Error Code for the execution of their transactions. They also have an obligation to settle and clear transactions. Members may act as Market Makers and by doing so they will be obliged to transmit market-making orders for the Derivative for which they have undertaken relevant obligations.

Furthermore, the Rulebook contains provisions regarding the Trading on the Derivatives Market, the most important of which revolve around General Market Parameters, Orders and Trading Methods. According to the General Market Parameters provisions, HeNeX administers the Derivatives Markets, which is operated as an electronic market, and trading of derivatives (Futures and Options Contracts) on HeNeX is conducted exclusively through the Trading System and it is anonymous. Trading of each Derivative takes place in series, the trading unit is defined equal to 1 Contract and certain conditions revolving around the load profile, the Contract Size, the Tick Size, the Starting and the Daily/Final Settlement Price of the Derivatives are laid down. According to the Orders provisions, the orders (declarations of intent to execute a transaction) must include certain information and there are several distinctions of them with respect to price, duration and under conditions. These orders may be modified or cancelled. According to the Trading Methods provisions, trades are executed either a) automatically or on a pre-agreed basis and b) continuously during a trading period.

Moreover, the Rulebook contains provisions regarding Rules of Admission to the Derivatives Market, which lay down the procedure for the admission to trading of Derivatives and the General Rules on the admission specifications of Derivatives and more specifically the main categories of Derivatives contracts, including the rights and obligations emanating therefrom. As far as the Procedure is concerned the HeNeX introduces certain criteria (terms of the contract are clear, price of the underlying asset is reliable etc.) and terms governing the admission of a Derivative. As far as the General Rules are concerned, the Rulebook provides for certain rules (general, series, cascading, rights and obligations arising from daily cash settlement or on expiration of the contract) governing either the Futures or the Options Derivatives. The Rulebook also stipulates Methods of communicating and handling information.

Last but not least, the Rulebook sets out a procedure for checking the compliance with its provisions and HeNeX is entitled to take certain measures against Members in the event of a breach, such as: a) written reprimand, b) imposition of restrictions, c) prohibition on the participation of the Certified Trader of the Member in HeNeX trading sessions, d) enforcement of penalty clauses amounting from € 300 to € 150,000, e) suspension on the capacity of a Member for a certain period of time and f) termination of membership. HeNeX may also revoke a Member's capacity as a Market Maker if there is a breach of duty.

Infrastructure

Developments in the Crete – Peloponnese Interconnection Project

by Andriani Kantilieraki (Athens)

On 7 November 2019, the Independent Power Transmission Operator issued a press release concerning the development of the Crete – Peloponnese interconnection project. In more detail, the TSO announced the signing of two contracts concerning a) the construction by INTRAKAT of the transmission line between the city of Molaoi and the Terminal (the contract value rose to € 4,5 million) and b) the construction of the powerhouse STATCOM by ELEKTROMEK-NARI (the contract value rose to € 5,5 million).

The aforementioned contracts were signed on 25 October 2019 and bring the whole interconnection project (with an overall budget of € 365 million) closer to its completion, estimated within the year 2020. The interconnection, which is considered to be the largest cable connection project worldwide, is expected to contribute to the fulfilment of the National Energy Plan for the withdrawal of polluting units by 2028 and the significant increase of the use of renewable energy sources (RES). Among others, the main goal of the project is to ensure energy efficiency for the island of Crete, which will fully be achieved once the interconnection between Crete and Attica is completed.

RES

Amendments to the Code of the Operator of RES and Guarantees of Origin (*DAPEEP*)

by Maria Ioannou (Athens)

On 5 November 2019, RAE's Decision No. 943/2019 modifying the Code of the Operator of RES and Guarantees of Origin ('Code of DAPEEP S.A') was published in the Government Gazette (OJ B' 4045/2019). The aforementioned decision amends the Code of DAPEEP S.A. pursuant to Art. 118A of law 4001/2011 and in line with the latest modifications of the energy market regulatory framework (mainly the Energy Transaction Code and the Grid Control Code for Electricity). The aim of the latest amendments is the harmonisation of the Code in conformity with the provisions of laws 4585/2018 and 4618/2019 and of the Ministerial Decisions No. ΑΠΕΗ/Α/Φ1/οικ.187480 (ΦΕΚ Β΄ 3955/9.12.2016) as amended, and ΥΠΕΝ/ΔΑΠΕΕΚ/25512/883 (ΦΕΚ Β΄ 1020/27.3.2019) as amended.

The main modifications introduced are the following:

(i) provisions for the operation of the Transitional Mechanism for the Optimal Pre-estimation Accuracy for the optimization of the input pre-estimation; (ii) provisions for the implementation of the methodology on the computation of the Increment for the Development of Preparedness for Market Participation; (iii) provisions on the clearing and settlement of RES sliding premium operational aid agreements, for which the date of effect is dependent upon the operation of the Aggregator of Last Resort; and (iv) provisions on the charges which are based on the weighted average of the variable cost of the thermal conventional stations. Regarding the latter, RAE further decided that since DAPEEP S.A. will be needing access to commercially sensitive data, such as the net energy input per thermal conventional station and the variable cost per said station per allocation time period in order to clear and settle these charges, the IPTO shall inform DAPEEP S.A. of the cumulative weighted average cost of the thermal conventional stations per allocation time period in €/MWh.

ROMANIA

Electricity

Launch of the Second Wave of Coupling of Intraday Electricity Markets

by Raluca Draghici (Bucharest)

On 11 November 2019, the Regulatory Committee of the National Regulatory Authority for Energy ("NRAE") approved a series of documents necessary for the launch of the LIP 15 project to connect the intraday electricity market, respectively the Order of the NRAE President no. 202/2019 for the modification of the Regulation of programming of the production units and of the dispatchable consumers approved by the Order of the NRAE President no. 32/2013 and for the repeal of the Regulation for the organization and functioning of the intraday electricity market, approved by the Order NRAE President no. 73/2013, and the Notice no. 89/2019 by which the *Procedure for the operation of the Intra-Daily Electricity Market, developed by Opcom SA,* was approved.

The approval of the documents mentioned above was necessary for the launch on November 19, 2019, of the second wave of coupling of intraday electricity markets through local projects, Romania being part of the project called LIP 15, along with Bulgaria, Croatia, Czech Republic, Hungary, Poland and Slovenia. Thus, the intraday energy market in Romania was coupled on November 19, 2019 with similar markets in 20 other European countries, and the first quantities of energy have already been delivered. This means that all traders in Romania will have the same trading tools as in the other 20 European countries and there is the possibility to carry out cross-border energy transactions on the most efficient platforms and European rules. Coupling intraday markets means that practically all traders in the coupled countries use the same computer platform for trading, which offers complete transparency regarding the prices and volumes traded. All of this will lead to increased liquidity in the market and increased competition, ensuring a reduction in the market share of balancing and more precise balancing of participants, better use of production capacity and resources, optimal use of cross-border transport capacity and not least, as an indirect consequence, the increased safety in the supply of consumers in Romania. Five years ago, on November 19, 2014, Romania's spot energy market was coupled with those in Hungary, the Czech Republic and Slovakia.

SERBIA

Oil & Gas

Serbia (AERS) - Approval on Use and Access to the Cross-border Transmission Capacity for 2020

by Mirjana Mladenovic (Belgrade)

At the sessions held on 15 and 28 November 2019, the Energy Agency of the Republic of Serbia (AERS) approved Agreements between the Transmission System Operator of the Republic of Serbia EMS AD and the Transmission System Operators of North Macedonia (MEPSO), Bulgaria (EAD), Romania (Transelektrika), Hungary (MAVIR), Croatia (HOPS), Bosnia and Herzegovina (NOSBIH) and Montenegro (CGES) on the procedure and method of cross-border capacity allocation and on the access to cross-border transmission capacity for 2020.

Namely, by organising the joint auctions, more efficient use of cross-border capacity is provided in line with the European regulations. The implementation of these agreements enables greater opportunities for system users and improves conditions for the development of the electricity market in Southeast Europe and its integration into the European market. Namely, joint auctions on these borders have been organized for several years in the past, starting from 2012 at the border with Hungary, from 2017 at the border with North Macedonia and from 2019 at the border with Montenegro. The agreements are improved every year in line with acquired experience, amendments to the regulations and in line with the development of platforms available to system operators. In addition to organizing joint auctions at the border with Montenegro, the most significant change this year was made at the border with Bulgaria where, as of 2020, the capacity will be allocated on intraday level.

AERS also approved amendments to the Cross-Border Transmission Capacity Auction Rules at the Borders of Control Area of EMS AD which will be implemented at the borders with neighbouring system operators where agreements on common auctions have not been signed. By amending these rules, the allocation procedure for intraday auctions is aligned with the rules applicable at the borders at which EMS AD performs this allocation by organizing joint auctions.

EnC Rejects Unbundling Model of Gastrans

by Vuk Stankovic (Belgrade)

On 13 January 2020, the Energy Community Secretariat published its Opinion on the Energy Agency of the Republic of Serbia (Agency) draft certification decision on GASTRANS, given that GASTRANS was not exempted from Gas Directive and Third Energy Package in line with the Law. In order to legitimate that ownership structure, on 1 October 2018, the GASTRANS requested the exemption from the ownership unbundling obligation and an exemption of future interconnector for natural gas from the obligation to apply third party access rules and regulated prices, pursuant to the provisions of the Energy law. Decision on Issuance of Certificate to Limited Liability Company GASTRANS as to Independent Natural Gas Transmission Operator on the Serbian section of the TurkStream II pipeline system was issued in middle 2019.

Environment

Dispute Settlement Procedure for Lack of Implementation of a National Emission Reduction Plan Opened

by Aleksandar Mladenovic (Belgrade)

On 15 January 2020, the Energy Community Secretariat sent an Opening Letter to Serbia to address the incomplete implementation of the Large Combustion Plants Directive which took effect on 1 January 2018 and provides for two alternative implementation avenues for compliance of existing combustion plants with its targets: either compliance with the emission limit values for SO2, NOx and dust at individual plant level, or implementation of a National Emission Reduction Plan (NERP). The draft NERP of Serbia was approved in 2016 by the Secretariat however its implementation was deemed to be poor. In the absence of a legally binding NERP, the existing large combustion plants in Serbia have to comply with the emission limit values of the Directive at individual level. Out of the sixteen existing large combustion plants in Serbia, nine are under the scope of the dispute settlement case. In this preliminary procedure commenced by the ENC, Serbia will be provided two months to respond to the allegation of non-compliance with Energy Community law.

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