

Monthly energy law headlines from the EU & the SEE countries of the Rokas network

## what's new...

### Energy Markets

- ♦ EU: Commission Publishes its Annual Priority List for 2017

### Electricity

- ♦ EU: Study regarding Cross-border Participation in Capacity Mechanism
- ♦ EnC: Five EU MSs Confirm Application of NCs on Borders with EnC CPs
- ♦ Greece: Amendment in the Law regarding the Electricity Suppliers
- ♦ Greece: MoU between LAGIE and Athens Stock Exchange
- ♦ Greece: Generation and Load Data Provision Methodology – GLDPM
- ♦ Albania: Secretariat issues Opinions on the Albanian Regulatory Authority's Certification of Electricity TSO
- ♦ Albania: New Regulatory Initiatives on the Electricity Market
- ♦ FYR of Macedonia: TSO Participation in Regional CAO
- ♦ Montenegro: Public Discussion on the Draft Market Rules
- ♦ Montenegro: Draft Rules on the Minimum Quality of the Electricity Distribution and Supply
- ♦ Serbia: Amendments to the Rules on Change of the Supplier
- ♦ Serbia: Certificate to EMS JSC as Electricity TSO

### Oil & Gas

- ♦ Greece: Public Consultation on the Revision of the Natural Gas Grid Management Code
- ♦ Greece: Approval of Natural Gas Regulated Supply Charges
- ♦ Croatia: Amendments to the Rules of Using the Gas Storage System

### Infrastructure

- ♦ EU Study: Cost-Effective Financing Structures for Mature PCIs
- ♦ Greece: Public Consultation on Draft TYDP for 2018-2027
- ♦ Greece: ESFA Development Plan 2016-2025 Approved
- ♦ BiH: Long-Term TNDP for 2017-2026 Approved
- ♦ Bulgaria: Public Consultation on Draft Agreement for IP Kulata / Sidirokastro
- ♦ Ukraine: Market Consultation on Ukraine-Moldova Gas Interconnection Agreement

### Competition - State Aid

- ♦ EU: Belgium's Scheme for the Support of Off-shore RES Producers Approved
- ♦ EU: Commission Approves Denmark Pilot Tender Scheme
- ♦ EU: Denmark State Aid Scheme for Offshore Wind Capacity Approved
- ♦ EU: Polish Scheme of Certificates of Origin for CHP Approved
- ♦ EU: Commission Confirms Unwarned Inspections in the Greek Electricity Field
- ♦ EU: Commission Approves Three French RES Support Schemes
- ♦ EU: The General Court Dismisses the Action of SolarWorld AG

### Renewables

- ♦ Greece: Workshop on the Permanent RES Tender Procedures
- ♦ Greece: RAE's Decision on the Charge of the Supplier
- ♦ Albania: New Law on RES
- ♦ Romania: Order no. 8/2017 Approved regarding the Green Certificates

### Energy Efficiency

- ♦ EU: 2016 Energy Efficiency Progress Report
- ♦ EU: Commission Issues Guidance on Energy Production from Waste
- ♦ EU: New Guidelines for the Introduction of Individual Metering and Billing
- ♦ BiH: FBiH Adopted the Law on Energy Efficiency

### Environment

- ♦ EU: Environmental Implementation Review
- ♦ EU: Amendments to EU Emissions Trading System

## the highlights...

### ENERGY MARKETS

EU: Second Report on the State of Energy Union

### ELECTRICITY

EU: ENTSO-E Recommendations on Cooperation with Third-Country TSOs

### OIL & GAS

EnC: CESEC Action Plan 2.0 First Monitoring Report

### COMPETITION - STATE AID

EU: The Court Rejected Italian RES Measure in Case Portovesme

### RENEWABLES

Ukraine: Recent Developments on RES Sector

## Energy Markets **what's new...**

### EU: Commission Publishes its Annual Priority List for 2017

*by Evidiki Evangelopoulou, (Thessaloniki)*

On 18 January 2017 the European Commission published in the Official Journal of the European Union its Implementing Decision (EU) 2017/89 of 17 January 2017 regarding the establishment of the annual priority lists for the year 2017 regarding the development of network codes and guidelines for both electricity and gas. In particular, the annual priority list for 2017 for the development of harmonised electricity rules includes rules regarding system operation; emergency and restoration requirements and procedures; as well as balancing rules. Moreover, the aforementioned list about the development of harmonised gas rules includes rules on harmonised transmission tariff structures for gas and others regarding an EU-wide market-based approach concerning the allocation of «new build» gas transmission capacity. The Decision shall enter into force on the 20th day following its publication in the Official Journal of the European Union.



## ENERGY MARKETS highlight...

### EU: Second Report on the State of Energy Union

by Mira Todorovic Symeonides, (Athens)

On 1 February 2017, the European Commission communicated to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank, the Second Report on the State of the Energy Union (COM (2017) 53 final, together with the following two Annexes: a) Policy observations at Member States (MSs) and EU level and b) Updated Roadmap for the Energy Community. The Report provides an update of the First Report on the State of Energy Union, communicated in November 2015 on the five dimensions of the Energy Union (energy security; a fully integrated European energy market; energy efficiency; decarbonizing the economy; and research, innovation and competitiveness).



A general conclusion of the Report is that the EU has continued to make good progress in all five dimensions of the Energy Union particularly on the 2020 energy and climate targets (although some of the conclusions are based on the 2014 or 2015 data). In its assessment of progress and challenges, the Report sums up the deliverables since the first report, including the adoption of the proposals necessary to deliver on 2030 climate and energy framework for the EU Emission Trading System;

the European low emission mobility strategy; and the Clean Energy package. The Commission plans to launch an awareness raising campaign in 2017 to encourage more consumers to participate in and benefit from energy market developments. In 2016 important interconnection projects were put in operation while the work on new interconnectors was launched, such as for the Trans Adriatic Pipeline (TAP), financing agreements were signed, such as for Balticconnector (a gas interconnector between Finland and Estonia), for the BRUA gas pipeline through Bulgaria, Romania, Hungary and Austria while the mandate for the Central East South Europe Gas Connectivity group (CESEC) is planned to be extended to electricity, renewables and energy efficiency. The work on investments into new energy projects is planned to be intensified in 2017 using the available instruments such as the European Fund for Strategic Investment, the European Structural and Investment Funds, while the Commission also proposed that the EU Innovation Fund supports innovation in the power sector and industry.

The Report concludes that only a small number of MSs have advanced on preparation of their integrated National Energy and Climate Plans for the period 2021 to 2030, which should include their contributions to the Energy Union objectives and the 2030 targets. In regards to energy security and infrastructure needs, there still remains a need for further improving gas interconnections between MSs (e.g. Croatia, Hungary, Romania, Bulgaria and Greece; Portugal and Spain with France). In regard to energy prices, unlike the wholesale prices which decreased in the period between 2013-2015 in all (gas prices) or in the most MSs (electricity prices), the retail prices of gas and electricity in the EU increased in the last five (5) years. In case of electricity it was mainly due to the increasing share of taxes and levies in the retail price. Retail markets for electricity and gas are still national and further efforts are needed to advance regional market integration which should further lead to increased competition. Prices for households remain regulated to different degrees in about half of the MSs which also constitutes an obstacle to demand-side participation and retail competition.

## Electricity what's new...

### EU: Study regarding Cross-border Participation in Capacity Mechanism

by *Mira Todorovic Symeonides, (Athens)*

In January 2017, the European Commission issued the Study on Framework for cross-border participation in Capacity Mechanism which describes and assesses two different options for cross-border participation: 1) a harmonized EU framework for cross-border participation in individual capacity mechanisms and 2) further harmonization of the basic elements for different capacity mechanism models. The options are compared to the current framework (baseline) and analyzed according to: a) the efficiency of cross-border investment incentives, b) the administrative costs and the distribution of costs; and c) the quantitative market impacts and benefits. The Study particularly identified and analyzed three basic types of capacity mechanisms: centralized capacity auctions and decentralized obligation schemes (capacity markets) and targeted strategic reserves. This Study provided the input to the Impact Assessment which supported the November 2016 European Commission legislative proposal for new energy market design, which is part of the Commission's «Clean Energy for All Europeans» package.

### EnC: Five EU MSs Confirm Application of NCs on Borders with EnC CPs

by *Stefan Pavlovic, (Belgrade)*

On 13 February 2017, the national energy regulatory authorities of Bulgaria, Greece, Hungary, Poland and Romania signed a general unilateral declaration on the applicability of all Third Energy Package gas network codes on interconnection points between the Energy Community Contracting Parties (EnC CPs) and EU Member States (MSs). The signatory regulators declared that they will respect the application of gas networks codes and guidelines on the interconnection points with the CPs, once the EnC Secretariat has been notified by the CP of its transposition. This represents a key step towards removing one of the obstacles to pan-European energy market integration. Until now, the EU MSs were legally obliged to apply network code rules between each other, but not on the interconnection points at the borders with the CP. The adoption of the network codes, which are already mandatory in the EU, is under preparation in the EnC. The European Commission is expected to propose the first two network codes - on interoperability and congestion management - for adoption in the EnC in the first half of 2017. However, CP may proceed with an early voluntary implementation in cooperation with EU neighbours and assistance of the EnC Secretariat.

### Greece: Amendment in the Law regarding the Electricity Suppliers

by *Stefania Chatzichristofi, (Athens)*

On 16 February 2017, the Greek Ministry of Environment and Energy submitted an Amendment of the Law no. 4075/2012 regarding the suppliers of electricity, which was included in the Draft Law of the Ministry of Labour, entitled «National Register of private social care organizations and other provisions». More precisely, the Greek State as well as all the public authorities are from now on entitled to choose their electricity suppliers other than the Public Power Corporation (PPC). Moreover, for the first time the Greek State acquires the right to buy in advance all the quantities of electricity that it consumes. Apart from this, the amendments provide that the Ministry of Economy will issue a decision which will regulate certain issues regarding the possibility to pay electricity in advance in order to reduce its price and the method for re-paying of previous debts of the state authorities to suppliers, all in order to support the alternative electricity suppliers and competition in the field of public procurement of electricity.

### Greece: MoU between LAGIE and Athens Stock Exchange

by *Mira Todorovic Symeonides, (Athens)*

On 15 February 2017, the electricity Market Operator (LAGIE) signed a Memorandum of Understanding (MoU) with the Athens Stock Exchange (ATHEXGROUP) with the aim to join forces in regard to implementation of the EU Electricity Target Model in Greece, which was regulated by the Law no. 4425 on Urgent Regulation of the Ministers of Finance, Environment and Energy, Infrastructure, Transport and Networks, and Employment, Social Security and Social Solidarity, for the implementation of the agreement on fiscal goals and corrective reform and other provisions adopted on 30 September 2016 (OJ A'185/2016). According to the Law, LAGIE will continue to operate the day-ahead market, undertake the operation of the wholesale market of the term products and the intraday electricity market. It will be in charge for settlement of the markets it operates, as well as for the covering, settlement and set-off of the respective transactions. Currently, LAGIE is appointed to be NEMO but the Law leaves for possibility that this may be altered or that LAGIE may cooperate with other entities in order to fulfill necessary requirements and capacities. In addition, a separate entity, which should meet certain criteria provided by the Law, may be appointed, in a procedure prescribed by the Law, to cover, settle and set-off the transactions of all four markets. The MoU provides that the goals the two companies intend to persuade include: a) establishment of a joint company which will undertake to cover, settle and set-off the transactions of electricity markets; b) establishment of a joint company which will support LAGIE in information technologies and in regard to the operation of the electricity markets; and c) undertaking of initiatives related to Greek market coupling with other EU markets, in compliance with EU legislation, but also with markets of other neighboring countries, which are not members of the EU.

## Greece: Generation and Load Data Provision Methodology – GLDPM

by Dr. Stavroula Antoniou, (Athens)

On the 22 December 2016 the Energy Regulatory Authority (RAE) approved the proposal of the Transmission Systems Operators (TSO) about the Generation and Load Data Provision Methodology – GLDPM, referred to in article 16 of Regulation (EU) 2015/1222 of the Commission, of the 24 July 2015, with regard to establishing guidelines on capacity allocation and congestion management in the day-ahead market and the intra-day market in the Member states. The goal of the above Regulation is, inter alia, the coordination and the harmonisation of the way of calculation and the allocation of capability of the interconnections, so that the single conjugation of the day-ahead electricity market and of the intra-day market to be implemented. The adoption of a single day-ahead conjugation and intra-day conjugation requires successive alignment of the existing methodologies for the calculation and the allocation of capability and for the congestion management. In order to facilitate the fulfillment of these aims, all the TSOs, have to use a common grid model. The creation of a common model is possible, only if all the TSOs have access to the generation and load data required in this framework. "Generation" encompasses all the injections into the transmission network and "Load" encompasses all the withdrawals from the transmission network. RAE concluded that the GLDPM proposal complies in general with the aims of the Regulation 2015/1222 as to that the data requested contributes to the creation of a common grid model, according to the requirements of the common grid model methodology as defined in article 17 of the Regulation.

## Albania: Secretariat issues Opinions on the Albanian Regulatory Authority's Certification of Electricity TSO

by Odisea Xhelita, (Tirana)

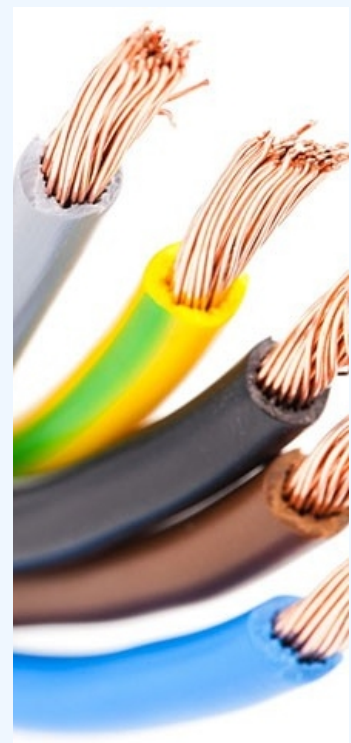
On 23 January 2017 the Energy Community Secretariat issued its Opinion no.1/17 and supported the certification of the Transmission System Operator (OST) in line with the Albanian Regulatory Authority (ERE's) Preliminary Decision, asking from ERE to take the utmost account of the below comments, when taking its final Decision:

- a) to elaborate on and monitor: the compliance with the rules on legal and functional unbundling of the Market Operator and the modalities of OST's involvement in any future power exchange; Whether the Ministries of Economy and Energy, respectively, approved budget of OST and KESh/OSHEE; The role of the Council of Ministers and the Prime Minister in relation to the Ministries of Economy and Energy; The application of the unbundling rules across the electricity and the gas sectors and their implementation in Albania.
- b) to impose additional requirements on OST, within a timeframe not longer than twelve (12) months related to: the implementation of a compliance programme and appointment of a compliance officer; Provide evidence that the Ministry of Energy may not propose the approval (or rejection) to the Council of Ministers of any new interconnectors to be constructed by OST, by virtue of adequate primary or secondary legislation; Provide evidence that the Ministry of Economy is exclusively empowered to issue opinions concerning the network development plan to ERE, by virtue of adequate primary or secondary legislation.

It should also be noted that in its Opinion the Secretariat took into account the Opinion no. 02/2016, issued on 16 December 2016 by the Energy Community Regulatory Board regarding the preliminary certification of OST. In this Opinion, the following conclusions were made:

- A. The Certification Decision should be amended by an assessment:
  - a. in order to avoid that the two Ministries in charge of the transmission company on the one side (namely, the Ministry of Economic Development, Tourism, Trade and Entrepreneurship, MZHET) and the supply and generation companies on the other side (namely, the Ministry for Energy and Industry, MEI) could be made subject to influence or alteration of decisions by the Prime Minister of the Republic of Albania; and
  - b. in order to ensure that MZHET, in performing the role of the General Assembly of OST, is independent in taking decisions on financial resources (budget) of the TSO; or
  - c. to which extent the concerns addressed in points (a) and (b) are addressed by a prohibition for MZHET to interfere in day-to-day operation of OST that would be able to, in return, mitigate the impact of potential influence making as referred to in points (a) and (b); and
  - d. to which extent MZHET's independence in taking investment decisions as required by Article 8(2) lit (h) of ERE Decision No 154 is to be considered fully met, having in mind that Article 31(1) PSL attributes the competence of approving new interconnection lines to the Council of Ministers of the Republic of Albania.
- B. The certification Decision should be amended by an assessment as regards why the twelve month period for OST to meet the conditions stipulated by the ERE certification Decision is valid and whether any shorter period can be met.
- C. The certification Decision should be amended by rules defining sanctions in case of incompliance of OST with the certification conditions.
- D. The certification Decision should be amended following the requirements for OST as regards its compliance with the certification conditions on annual basis and ERE should report accordingly to the Energy Community Secretariat.
- E. Reference to legal provisions applicable under the EU *acquis communautaire* should be replaced by reference to the relevant legal provisions applicable under the Energy Community *acquis communautaire* pursuant to Ministerial Council Decision 2011/02/MC-EnC F.

Both opinions: i) the Opinion 1/17 dated on 23 January 2017 & ii) the Opinion 02/2016 dated on 16 December 2016, are published on the Energy Community website.



## Albania: New Regulatory Initiatives on the Electricity Market

by *Odisea Xhelita, (Tirana)*

On 19 January 2017 ERE approved the following regulatory initiatives on its electricity market: i) on the commencement of procedures for reviewing and approving the agreement for the participation on the electric energy market (the Decision No.2/2017); ii) on the commencement of procedures for reviewing and approving the regulations on the financial guarantees to be imposed to the market participants for the registration on the electric energy market (the Decision No.3/2017); iii) on the commencement of procedures for reviewing and approving the regulation on the registration on the electric energy market (the Decision No.4/2017); iv) on the commencement of procedures for reviewing and approving the regulation for revoking the awarded licenses to the market participants of the electric energy sector and the natural gas sector (the Decision No.6/2017); v) on the commencement of procedures for reviewing and approving the guidance on the accessing criteria to storage the natural gas (the Decision No.8 / 2017); vi) on the commencement of procedures for approving the tariffs' calculation methodology of the electric energy production companies, partially or entirely owned by state, and which bear the public service obligation (the Decision No.17/2017); vii) on approving some amendments to the temporary market rules of the Albanian market, as approved with Decision No.139/2016, which amendments are specifying the provisions of the said decision (the Decision No.7/2017). The aforementioned decisions entered into force on 19 January 2017, and they are published both on the Official Gazette and on ERE's website.

## FYR of Macedonia: TSO Participation in Regional CAO

by *Simonida Shosholcheva Giannitsakis, (Skopje)*

On 31 January 2017, the Energy Community (EnC) Secretariat closed the case no ECS-4/11 against FYR of Macedonia concerning the failure to fulfil its obligations under the Energy Community Treaty. On 20 January 2011, the Secretariat sent Opening Letters to FYR of Macedonia, Albania, Bosnia and Herzegovina, Croatia, Montenegro and Serbia regarding the fact that they have not yet adopted a common coordinated congestion management method and procedure for the allocation of capacity to the market. On 8 September 2014, the Secretariat submitted Reasoned Opinion against FYR of Macedonia a requesting it to adopt and apply the electricity market congestion management guidelines in a period of 2 months. The electricity transmission system operator of FYR of Macedonia, MEPSO was participant in auctioning of 2017 yearly, monthly and daily electricity cross-border capacities by the Coordinated Auction Office for South East Europe (SEE CAO). As a result of successful participation in the auction the Secretariat decided to discontinue the case ECS-4/11. Closing the case by the Secretariat was in compliance with common auction rules approved by the Energy Regulatory Commission in October 2016.

## Montenegro: Public Discussion on the Draft Market Rules

by *Mirjana Mladenovic, (Belgrade)*

On 23 February 2017, the Montenegrin Electricity Market Operator («COTEE») published its invitation for public discussion on the Draft Market Rules («Market Rules»). The Market Rules, among others, regulate the following: procedures, principles and standards for the organization and functioning of the electricity market in accordance with the applied market model; the obligations of market participants, including liabilities arising from balancing responsibility; procedures and principles for the sale and purchase of electricity produced in the facilities of privileged producers of electricity between the Market Operator and suppliers and consumers self-suppliers etc. All interested parties were invited to submit comments and suggestions until 7 February 2017. Also, within the public discussion on the draft Market Rules, COTEE enacted the call for a round table discussion, which was held on 21 February 2017. After public discussion, COTEE shall determine the Market Rules and submit them to the Montenegrin Energy Regulatory Agency for approval, all in accordance with Article 128 Paragraph 2 of the Energy Law (Official Gazette no. 5/16).

## Montenegro: Draft Rules on the Minimum Quality of the Electricity Distribution and Supply

by *Stefan Pavlovic, (Belgrade)*

On 9 February 2017, the Montenegrin energy regulator (Regagen) issued the conclusion which extends the duration of the public consultation regarding the Draft Rules on the Minimum Quality of the Electricity Distribution and Supply (Draft rules). Among other things, the Draft Rules prescribes the minimum quality of electricity distribution and supply, based on the following criteria: (i) quality of services; (ii) continuity of power supply; (iii) voltage quality; (iv) financial compensation which the energy entities are obliged to pay for failing to fulfill the required minimum quality. All interested parties are invited to join the discussion and to submit their opinions and comments until 24 February 2017.

## Serbia: Amendments to the Rules on Change of the Supplier

*by Mirjana Mladenovic, (Belgrade)*

On session held on 10 February 2017, the Council of the Energy Agency of the Republic of Serbia (EARS) adopted the Decision on Amendments to the Rules on Change of the Supplier (Decision). These amendments make the existing provisions more detailed with the aim to provide its adequate implementation and to harmonize them with the Energy Law regarding the duration of the procedure of change of the supplier. The Decision annuls the obligation of examining timeliness of the application thus creating conditions for conducting the procedure even when a customer fails to submit an application at least 21 days before the day the supply is suspended. In addition, a new obligation of the current electricity or natural gas supplier is introduced, i.e. they are obliged to justify their objection and this provides for the customer to change the supplier even when the current supplier has filed an objection within the prescribed deadline of 3 working days but failed to list the reasons for disclaiming the customer's right to change the supplier. Among other things, the Decision prescribes simplified contents of a customer's application for the change of the supplier, i.e. the application no longer includes technical and energy-related data on the delivery point and this amendment is supposed to contribute to the more efficient procedure.

## Serbia: Certificate to EMS JSC as Electricity TSO

*by Vuk Stankovic and Stefan Pavlovic, (Belgrade)*

On 26 January 2017, the Council of the Energy Agency of the Republic of Serbia (AERS) adopted a Decision in regard to certification of the Joint Stock Company Elektromreža Srbije (EMS JSC) as the electricity transmission system operator (TSO). Acting in line with the Article 103 of the Energy Law, AERS initiated a new certification procedure of the EMS JSC because of the requirement for further compliance with unbundling rules. EMS JSC is obliged to take all necessary actions before the competent authorities of the Republic of Serbia within 12 months in order to harmonise ruling regulations of the Republic of Serbia so as to comply with conditions concerning the independence of TSO as well as in order to register ownership rights over facilities which constitute the electricity transmission system. In line with the commitments arising from the Treaty establishing the Energy Community, the Decision is submitted to the competent body of the Energy Community in order to provide its opinion. Upon receiving of the opinion, AERS will adopt the final decision on certification and it will be published in the Official Gazette of Republic of Serbia and on AERS website along with the opinion of the competent Energy Community body.



## ELECTRICITY highlight...

### EU: ENTSO-E Recommendations on Cooperation with Third-Country TSOs

by Tetyana Vyshnevska, (Kiev)

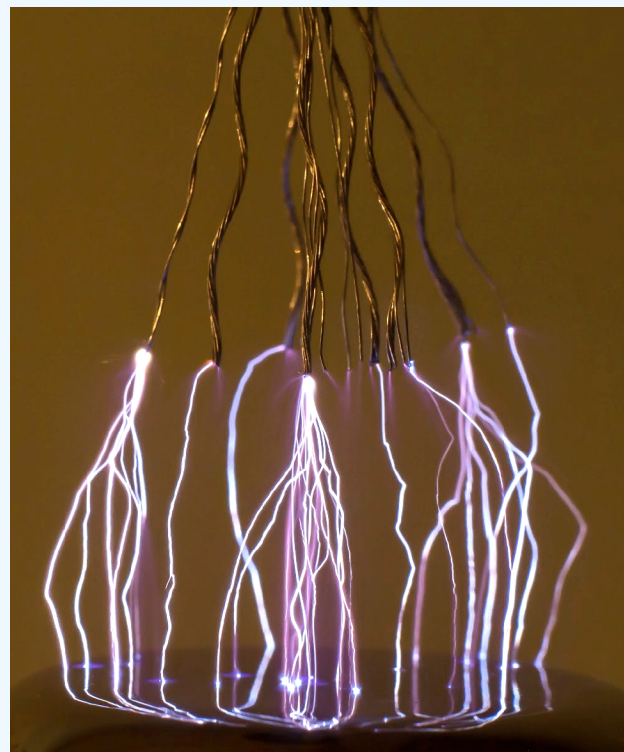
On 20 January 2017, the European Network of Transmission System Operators for Electricity (ENTSO-E) published its Recommendations relating to the Coordination of Technical Cooperation between Union and Third-Country Transmission System Operators (TSOs). The Recommendations were prepared in accordance with the requirements of Regulation (EC) No. 714/2009 on conditions for access to the network for cross-border exchanges in electricity, with the view to facilitate the cooperation and coordination between TSOs to ensure effective and transparent access to the transmission networks and to provide coordinated and forward-looking planning, as well as to support creation of interconnection capacities with third-country TSOs.

According to the Recommendations, third-country TSOs are all the TSOs located outside the EU and not participating in ENTSO-E as a full member, associated member or observer member. ENTSO-E identifies several categories of third-country TSOs depending on: i) whether the TSO's country is a Contracting Party to the Energy Community Treaty or is/will be otherwise obliged to implement certain provisions of the EU acquis, in particular Directive 2009/72/EC concerning common rules for the internal market in electricity, Regulation (EC) No. 714/2009 and the future Regulation establishing a guideline on electricity transmission system operation, and ii) whether the TSO's country has an AC, a DC or no interconnection with a member(s) of ENTSO-E or with an ENTSO-E synchronous area.

The recommendations are provided in respect of each category of third-country TSOs, and concern technical cooperation in regards to coordinated system operation, data and information sharing, expert knowledge, network development planning and security management. Depending on the category of third-country TSOs, ENTSO-E provides for the following specific levels of cooperation: a) technical cooperation according

to/consistent with the Operation Handbook (OH)/System Operation Guideline and Emergency and Restoration Code or cooperation at the level of expert knowledge, not based on EU regulations but on common interests and needs, which would have to be developed together with third-country TSOs; b) full sharing of expertise and knowledge or transfer of expert knowledge depending on the mutual/third-country's interest and needs; c) inclusion/potential inclusion in ENTSO-E development plans or exchange of expert knowledge on system development practices in open forums; d) fully agreed cooperation on security management or the recommended/allowed coordination and promotion of best practices in the prevention of cyber-attacks depending on the shared need.

The Recommendations will be reviewed and updated by ENTSO-E as needed, including upon consultations with third-country TSOs.





## Oil & Gas what's new...

### Greece: Public Consultation on the Revision of the Natural Gas Grid Management Code

by *Stefania Chatzichristofi, (Athens)*

On 24 January 2017, the Greek Energy Regulatory Authority (RAE) issued a public consultation that lasted until 31 January 2017 regarding the third revision of the Natural Gas Grid Management Code. More precisely, RAE, with almost a year delay (since the consultation on the initial plan expired on 19 February 2016), published the consolidated text of the 3rd Revision of the National Gas Grid Management Code as gradually supplemented by the Hellenic Gas TSO (DESFA) during 2016. A memo with some of the most important new amendments were enclosed to the draft Code, and particularly regarding: i) the capacity allocation and gas transmission systems; ii) planning of the operation of the National System of Natural Gas; iii) delivery and receipt of natural gas; iv) allocation of quantities of natural gas; v) balancing services; vi) potential crisis of supply.



### Greece: Approval of Natural Gas Regulated Supply Charges

by *Andriani Kantilieraki, Athens*

On 27 January 2017, the Regulatory Authority for Energy (RAE) published its approval of regulated supply invoices to non-eligible consumers (who neither choose suppliers nor purchase natural gas directly from the producers) in the areas of Attica, Thessalonica and Thessaly. For this regulation, RAE considered the proposals of the three gas supply companies, the overall costs of the previous and the anticipated costs of the current year as well as the international practice and the principles of gaining reasonable profits, illustrating the actual cost of natural gas supply increased for the charges for the use of the transmission and distribution systems. The approved invoices reflect the increasing cost of gas supply, the increased transmission invoices of the National Natural Gas System Operator (although the approved prices are relatively lower in comparison with the initial proposal of the Operator) and the substantial decrease of the special consumption tax introduced by law n. 4389/2016. The main goal of the approved profit margins is to avoid imposing further expenses to consumers and the enforcement of competition in the gas market. Thus RAE's decision resulted in the reduction of prices for consumers (up to 11% in some areas) in the view to increase the consumers by January 2018.

### Croatia: Amendments to the Rules of Using the Gas Storage System

by *Sanja Tolj Par, (Zagreb)*

On 30 January 2017, following the approval of the Croatian Energy Regulatory Agency, the Croatian gas storage system operator, the company Underground Gas Storage Ltd passed the Amendments to the Rules of using the storage system (UPR-017/2017), which entered into force on 31 January 2017. In accordance with Article 1 of the Amendments which were introduced at the request of the Croatian Ministry of Environment and Energy, due to possible jeopardizing of the security of gas supply, the requests for booking of the standard storage capacity packages (SSCP) which the Operator offers on an annual basis and for a period of up to five years of storage, are to be received by the gas storage system operator in two rounds. Namely, for the first round of distribution of the SSCPs the requests are received until 31 January 2017 for 40% of the total available SSCPs, and for the second round of distribution until 28 February 2017 for the remaining available and undistributed SSCPs.

## OIL & GAS highlight...

### EnC: CESEC Action Plan 2.0 First Monitoring Report

by Mira Todorovic Symeonides, (Athens)

On 7 February 2016, the Secretariat of the Energy Community (EnC Secretariat) published its first Monitoring Report under the new Central and Sought-Eastern European Gas Connectivity (CESEC) Initiative Action Plan 2.0. The CESEC Initiative was established on 10 July 2015 when the EU, Austria, Albania, Bulgaria, Croatia, Greece, Hungary, Italy, FYR of Macedonia, Moldova, Romania, Serbia, Slovakia, Slovenia and Ukraine signed the MoU with an intention to jointly address the issues of natural gas diversification and security of supply. The CESEC Action Plan includes: the selection of a limited number of key projects beneficial for the CESEC region, identifying and addressing project specific issues; financing aspects; and addressing market integration obstacles. The EnC Secretariat, the Agency for the Cooperation of Energy Regulators (ACER) and the EU Commission are empowered to monitor the implementation of the Action Plan. The initial Action Plan was revised and upgraded on 8 and 9 September 2016 by the CESEC High Level Group. The upgraded Action Plan i.e. the Action Plan 2.0, contains the updated list of specific actions as well as further regional activities. This is the first monitoring report since the amendments of the Action Plan.

The Action Plan 2.0 contains the implementation of specific legislative and regulatory actions, including unbundling of Transmission System Operators (TSO), third party access to gas infrastructure, establishment of market-based balancing mechanisms and cross-border costs allocation in compliance with Regulation (EU) 347/2013. The general conclusions of the Report in regard to five (5) EnC Contracting Parties (CPs) which participate in the CESEC are that: a) only Moldova made progress in regard to ensuring transparent and non-discriminatory third party access while Albania, FYR of Macedonia, Serbia and Ukraine made no progress; b) all five (5) CPs made some progress in regard to ensuring free flow of gas and provision of competitive framework; c) none of the five (5) CPs made any progress in regard to infrastructure related measures; and d) Albania, Moldova and Ukraine made progress in regard to TSO unbundling while FYR of Macedonia and Serbia made no progress. Specific progress made by Albania is in regard

to TSO unbundling as the Albanian regulatory authority (ERE) issued the final decision on the certification of the Trans-Atlantic Pipelines (TAP) in April 2016 and established a new company Albgas s.a. which will be the gas Transmission and Distribution Operator in December 2016. Moldova reports progress by the enactment of the Natural Gas Law transposing the Third Energy Package in 2016, and starting discussions with Ukraine and Romania on the implementation of the CAM and CMP Network Codes. In regard to the TSO unbundling, the EnC Ministerial Council approved the postponement of the TSO unbundling in Moldova until the year 2020. Ukraine approved the Plan for Restructuring of Naftogas of Ukraine in 2016 and established the new TSO Main Pipelines of Ukraine (MGU). The Ukrainian Regulatory Authority adopted TSO certification rules in April 2016.



There are only two CESEC priority projects in which CPs are involved: TAP and the interconnector Bulgaria-Serbia. Since TAP is already well advanced in implementation, the interconnector Bulgaria-Serbia is addressed in the Report in more details. The interconnector will be 170 km long and will connect Sofia, through Dimitrovgrad, cross border with Serbia, to Nis in Serbia. The first MoU regarding this interconnector was signed between Serbia and Bulgaria in 2012 and the second MoU in January 2017. The second MoU contains the schedule of the project which foresees the start of operation in 2020. The total expected investment is estimated to be €135 million. So far Bulgaria has secured €48 million and Serbia in January 2017 reached co-financing agreement, within the framework of national IPA projects, in the value of €49.7 million. According to the Report, there is no much progress in regard to obtaining of respective construction permits (planned in both countries for 2018) and tendering for the construction works (planned in Serbia plans for 2019 and in Bulgaria for the third quarter of 2018).

## Infrastructure **what's new...**

### EU Study: Cost-Effective Financing Structures for Mature PCIs

*by Paraskevi Charalampidi, (Athens)*

In February 2017, the European Commission published the November 2016 study on the delay in many Projects of Common Interest (PCI) in energy infrastructure due to obstacles in financing. According to the study, three kind of challenges complicate PCI financing in the four electricity and gas TSOs which were selected to receive support in mastering their PCI. Furthermore, the study shows that European instruments are effective at leveraging private investment but PCI promoters often do not use these instruments' full potential. Finally, the study has as a result the identification of four measures that would support the EU's existing PCI programmes in alleviating financing-related delays and ensure the realisation of energy-infrastructure PCIs, i.e. the introduction equity and debt instruments with an unbalances risk-return profile.

### Greece: Public Consultation on Draft TYDP for 2018-2027

*by Dr. Stavroula Antoniou, (Athens)*

On 17 February 2017 the Independent Power Transmission Operator (IPTO) launched a public consultation on the Preliminary Draft of the Ten Year Development Plan (TYDP) of the Hellenic Transmission System, which will last until 16 March 2017, a date by which the interested parties can submit their opinions. After the end of public consultation and during the tendering procedure of the official plan TYDP 2018-2027 to RAE, IPTO will publish a participants list, and the content of the letters submitted in combination with the IPTO opinions and final proposals.

### Greece: ESFA Development Plan 2016-2025 Approved

*by Dr. Stavroula Antoniou, (Athens)*

On 27 January 2017 the Regulatory Energy Agency (RAE) issued the decision 64/2017 (OJ A' 436/2017) approving the Development Plan of Hellenic Gas Transmission System (ESFA) 2016-2025. As defined in article 69 of L. 4001/2011 the Hellenic Gas Transmission System Operator (DESFA) prepares and RAE approves and monitors the implementation of the Development Plan. The Plan includes, inter alia, the projects whose implementation will start within these ten years but also the projects already under development whose construction will continue during these ten years. DESFA substantiates the feasibility of integration of the suggested projects which are included for the first time in the Development Plan and reports their construction process, estimated cost, timetable of implementation and the ways of funding and repossession of such investments.

### BiH: Long-Term TNDP for 2017-2026 Approved

*by Nebojsa Milanovic, (Banja Luka)*

On 26 January 2017 the State Regulatory Committee for Electricity (DERK) adopted the ten years electricity network plan for the years 2017-2026 prepared by the Company for Transmission of Electric Power in Bosnia and Herzegovina and subsequently revised by the Independent System Operator in Bosnia and Herzegovina (NOS BiH). The Plan defines the required reinforcement of the existing transmission network facilities and construction of the new ones to ensure timely commencement of activities with regard to designing, constructing and putting into operation of infrastructure necessary for a continuous supply and stable operation of the system. The total value of investments as projected by the Long-Term Plan amounts to 825.44 million BAM (€422.04 million). The Plan envisages the construction of new substations and transmission lines the value of which amounts to 206.12 million BAM (€105, 38 million) and new interconnectors the value of which amounts to 89.99 million BAM. (€46,01 million). The Plan also includes the reconstruction and expansion of substations (331.04 million BAM or €169,25 million), reconstruction of transmission lines (140.59 million BAM or €71,88 million), refurbishment of the SCADA system (supervisory control and data acquisition) and telecommunication equipment (44 million BAM or €22,56 million), and installation of shunt reactors to improve voltage regulation in the power system (13.70 million BAM or €7.02 million).



### Bulgaria: Public Consultation on Draft Agreement for IP Kulata / Sidirokastro

*by Apostolos Christakoudis, (Sofia)*

On 30 January 2017, the Bulgarian gas Transmission System Operator (TSO) – BULGARTRANGAZ EAD launched public consultations on the draft revised Business Rules and exceptional events of draft Interconnection Agreement version 2.0 for IP Kulata/Sidirokastro. This public consultation is in connection with the Interconnection Agreement for the common IP Kulata/Sidirokastro, concluded between the Greek TSO – DESFA S.A. and the Bulgarian TSO BULGARTRANGAZ EAD on 24.06.2016. The agreement was concluded for the purpose of securing safe, reliable and effective operation of the interconnected transmission systems, promoting the development of a competitive and liquid Natural Gas market in IP Kulata/Sidirokastro, including reverse flow from Greece to Bulgaria, determining the conditions for coordinated operation of the interconnected gas transmission systems and establishing data/information exchange and guaranteeing their bilateral collaboration. Both operators have agreed a revision of the Business Rules of the Interconnection Agreement. The consultation is intended to collect views from all parties interested in transmitting natural gas through IP Kulata/Sidirokastro either towards Greece or Bulgaria. All interested parties were invited to provide comments on the procedures until 22 February 2017.

### Ukraine: Market Consultation on Ukraine-Moldova Gas Interconnection Agreement

*by Tetyana Vyshnevskaya, (Kiev)*

On 1 February 2017, current Ukrainian gas Transmission System Operator (TSO) PJSC Ukrtransgaz, in cooperation with its Moldovan counterpart, launched a market consultation on the interconnection agreements for gas transmission through the interconnection points Grebenyky and Kaushany, Oleksiivka and Ananiiv, in accordance with the requirements of the Commission Regulation (EU) 2015/703 of 30 April 2015 establishing a network code on interoperability and data exchange rules. The stakeholders are invited to provide their comments on the rules for the matching process, rules for the allocation of gas quantities and communication procedures in case of exceptional events. The consultation will run until 1 April 2017.

## Competition - State Aid **what's new...**

### EU: Belgium's Scheme for the Support of Off-shore RES Producers Approved

by *Viktoria Chatzara, (Athens)*

On 3 February 2017 the Commission's decision in the case SA.45867 concerning the Belgium federal regime governing renewable energy certificates (RECs) and the granting of aid to the Rentel and Norther wind farm projects was published in the Official Journal of the EU. The REC scheme was initially cleared by the Commission in 2002; the decision at hand refers to a notification made by Belgium and concerning amendments to the REC scheme and individual notification concerning the above mentioned projects benefiting from the REC scheme, which are expected to be operational in 2018/2019. According to the current regime, the federal energy regulator (CREG) grant a REC for every MWh produced to producers of offshore renewable energy. The producers sell the RECs to Elia, the Belgian TSO at a minimum price, equal to the difference between the levelised costs of producing energy (LCOE - as determined by the State) and the reference electricity market price. Elia in its turn collects a surcharge from the holders of access contracts and distribution system operators, which may pass it on to the final consumers. The amendments notified by Belgium refer to a change to the formula for the calculation of the RECs minimum price, in which the LCOE will be determined for each producer separately, as well as the duration of Elia's obligation to purchase RECs which is equal to 19 years (from previously 20 years). The Commission, taking into account that the financial flows connected with the RECs are strictly controlled by the State and that the REC regime confers an economic advantage to offshore renewable energy producers concluded that the notified scheme constitutes state aid. Nevertheless, both the amended REC scheme and the individual aid granted to the Rentel and the Norther offshore wind projects were found to meet all the conditions laid down in the 2014-2020 Guidelines on State aid for environmental protection and energy.

### EU: Commission Approves Denmark Pilot Tender Scheme

by *Viktoria Chatzara, (Athens)*

On 3 February 2017 the Commission's decision in case SA.44626 concerning the notified pilot tender scheme for the granting of aid to solar photovoltaics (PV) was published in the Official Journal of the EU. The measure examined by the Commission concerned the design and construction of solar PV having capacity of 20MW, out of which 2.4 MW will be open to projects located in other EEA States as well (under certain conditions). According to the notified scheme, the bidders will be stating a price in DKK per MWh for electricity generated in the first 20 years from the connection with the grid, whereas the aid will be granted to the bids offering the lowest price. To be noted that each bid may refer to more than one PV installation, but may not exceed a maximum size of 2.4 MW. With respect to bidders from other EEA States, currently projects located in Germany may submit bids, as Germany is the only EEA State that has concluding the relevant cooperation agreement with Denmark. The aid will have the form of a premium paid on top of the electricity price for the electricity production, on the basis of the bid and in monthly payments, and will be financed through a public service obligation tariff levied on electricity consumption and paid by electricity consumers or directly from the State budget since 2017, in the event that the tariff will be revoked. The Commission examined the above scheme and ruled primarily that it constitutes state aid in the sense of the relevant Treaty provisions, falling into the scope of the Guidelines on state aid for environmental protection and energy 2014-2020 (EEAG). Pursuant to the Commission's assessment, the pilot tender scheme complies with the applicable requirements set out in the EEAG, whereas it does not violate other Treaty provisions (such as the articles 30 and 110 thereof) either. Therefore, under the aforementioned decision of the Commission, the Denmark pilot tender scheme was found to be compatible with the internal market.

### EU: Denmark State Aid Scheme for Offshore Wind Capacity Approved

by *Viktoria Chatzara, (Athens)*

On 3 February 2017 the Commission's decision dated 03.10.2016 in case SA.43751 was published in the Official Journal of the EU. The case concerns a notified state aid measure in the form of a tender for the design, construction and operation of 350 MW offshore wind capacity in five areas close to the shore of Denmark. The measure aims to contribute to the attainment of Denmark's energy targets, according to which by 2020 30% of the final energy consumption should be supplied from renewable energy sources, whereas by 2050 Denmark aspires to have entirely phased out fuel based energy production. The beneficiaries of the scheme were selected through a tender procedure, in the course of which the bidders could submit offers for five predefined locations, each of which can hold up to 200 MW except of one location which can hold up to 50 MW. The concession contract was to be awarded to the combination of tenders which added up to 350 MW at the lowest average price. Pursuant to the notified scheme, the aid would be granted in the form of a premium on top of the electricity price, calculated for each hour and payable for the first 50.000 full load hours of production, with a maximum duration of 20 years from the connection of the wind farm to the power grid. To be noted in this relevance that the wind farms shall be connected to the grid by 31.12.2020. It is also provided that the scheme will be financed through a public service obligation tariff imposed on customers of transmission and distribution of electricity services, which is, in principal, paid by all consumers and for all electricity. The Commission concluded that the notified measure constitutes state aid and shall be assessed in the light of the Guidelines on state aid for environmental protection and energy 2014-2020 (EEAG). Following a relevant evaluation of the EEAG's conditions, as well as of other relevant Treaty provisions, the Commission resulted in accepting the compliance of the notified state aid scheme with the internal market.

## EU: Polish Scheme of Certificates of Origin for CHP Approved

by *Viktorija Chatzara, (Athens)*

On 20 January 2017 the Commission's decision in case SA.36518 concerning a state aid scheme in the energy sector notified by Poland was published in the Official Journal of the EU. The scheme in question refers to the allocation of three categories of certificates of origin to producers of electricity and heat in high efficient CHP plants located in Poland depending on the means used for the production; such certificates are granted for free by the President of the Polish Energy Regulatory Office (URE) in proportion to the amount of generated electricity. At the same time, the scheme provides for an obligation of certain entities to purchase and redeem a specific number of CHP certificates, in proportion to the amount of power supplied to end-users (in the event of electricity distributors) or purchased (i.e. in case of industrial users for electricity purchased for own use), thus creating a demand for CHP certificates, which generates in its turn additional income for electricity generators from CHP. The entities bearing this obligation may include the additional cost for the purchase of CHP certificates to the electricity price paid by end-users. The trading of CHP certificates takes place either on the Polish Power Exchange SA (PPE) or through bilateral contracts. To be noted that no minimum or maximum price of the CHP certificates is set by law or regulation; on the contrary the price is entirely regulated in accordance with market forces. According to the Commission the CHP certificates scheme constitutes state aid and falls into the scope of the Guidelines on state aid for environmental protection and energy 2014-2020 (EEAG), of the Community Guidelines on State aid for environmental protection adopted in 2001 (2001 EAG) and of the Community Guidelines on State aid for environmental protection adopted in 2008 (2008 EAG), taking into account the time the scheme was implemented. After assessing whether the conditions of all the above mentioned applicable texts were met, the Commission concluded that the notified CHP certificates scheme is compatible with the internal market.

## EU: Commission Confirms Unwarned Inspections in the Greek Electricity Field

by *Stefania Chatzichristofi, (Athens)*

On 15 February 2017, the European Commission issued a press release and thereby confirmed that on 14 February 2017 its officials carried out unwarned inspections at the premises of companies active in the generation, transmission and supply of the electricity sector in Greece. This action which is the first step into suspected anti-competitive practices is justified by the concerns created to the EU Commission that the respective companies may have adopted anti-competitive practices in breach of EU antitrust rules that prohibit the abuse of a dominant position according to the Article 102 of the TFEU or that they are in possession of information relating to such practices. It should also be noted that the Commission officials were accompanied by their counterparts from the Hellenic Competition Commission. These inspections by the part of the Commission could not prejudice the outcome of the investigation, whose duration has no legal deadline and depends on various factors.

## EU: Commission Approves Three French RES Support Schemes

by *Stefania Chatzichristofi, (Athens)*

On 10 February 2017, the European Commission issued Decisions No. SA. 40349, SA. 41528 and SA. 46259 (the non-confidential versions of these Decisions shall be published soon) and thereby approved three (3) support schemes for renewable energy (RES) projects in France in order to support solar and hydropower generators, for being in compliance with the Guidelines on State Aid for environmental protection and energy 2014-2020. Following the targets set for each EU Member State according to the RES Directive, France is obliged to reach a target of 23% by the year 2020. In this context, the three aforementioned schemes aim to help achieving this goal. More precisely, the measures approved consist of two solar and one hydropower support scheme. The first solar refers to the installations less than 100 kW that shall have the possibility of payment of a preferential price (feed-in-tariff); the second solar initiative refers to the installations between 100 and 250 kW and those above 250 kW with a feed-in tariff over twenty years; and finally the hydropower scheme that shall support the new installations of up to 60 MW who will be selected through a tender procedure.

## EU: The General Court Dismisses the Action of SolarWorld AG

by *Mira Todorovic Symeonides, (Athens)*

On 16 February 2017, the General Court of the EU, in Case T-783/14 SolarWorld AG, (a European producer of crystalline silicon photovoltaic modules and key components established in Bonn which supports EU ProSun, association of European producers of the product concerned) vs. European Commission, in application for annulment of the Commission's decision contained in a letter of 15 September 2014 addressed to the Chinese Chamber of Commerce for the Import and Export of Machinery and Electronic Products, ref. TRADE/H4 (2014) 3328168, on downward adjustment of the minimum import price for imports of photovoltaic modules and cells manufactured by Chinese exporting producers subject to a price undertaking with effect from 1 October 2014 for the last quarter of 2014. As a result of the initial 2012 EU ProSun anti-dumping and anti-subsidy complaint with the European Commission concerning imports of these products consigned from the People's Republic of China, the Council Implementing Regulation (EU) no. 1238/2013 imposing a definitive anti-dumping duty on imports of these products from China and the Council Implementing Regulation (EU) 1239/2013 imposing a definitive countervailing duty on imports of these products from China were issued on 2 December 2013. The amount of anti-dumping duty ranged from 27.3-64.9% and of countervailing duty from 0-11.5%. Upon the March 2014 CCCME's (the China Chamber of Commerce for Import and Export of Machinery and Electronic Products') initiative, the Commission on 15 March 2014 approved the downward adjustment of the Minimum Import Price (MIP). On 15 September 2014 the Commission approved the second downward adjustment of MIP for which the applicant requested to be annulled due to the lack of prior assessment by the Commission as to whether the adjusted MIP would remove the injurious effects of the dumping and subsidies. The General Court dismissed the application concluding that such prior assessment was not required.

## COMPETITION - STATE AID **highlight...**

### EU: The Court Rejected Italian RES Measure in Case Portovesme

*by Stefania Chatzichristofi, (Athens)*

On 1 February 2017, the Court of Justice of the European Union (CJEU) issued its Decision on the Case C-606/14P regarding the appeal of the Italian Company Portovesme against a judgment of the European Court of First Instance by which it rejected the appeal of Portovesme against a Decision of the Commission (Portovesme/Commission, T-299/11). By its Decision, the CJEU decided that the Italian state aid measure in favor of Portovesme is incompatible with the internal market rules.



To start with, a Decision of the Italian Interministerial Committee dated on 14 December 1993, was repealed by a Decree of 19 December 1995, fixing a thermal surcharge integrated into the electricity tariff, known as the "pre-Alumix tariff". During the process of privatization of Alumix (a company active in the aluminium field), the Italian Government adopted measures in order to reduce the electricity tariffs applicable to the aluminium industries in Portovesme and Fusina. In its Alumix Decision, the Commission considered that the "pre-Alumix tariff" applied from 1993 to 1995 constituted State aid and thus, it resulted that Alumix was benefiting from a reduction of its production costs by reducing the thermal surcharge, while other industries in the rest of Italy did not. Further, a Decree dated on 6 February 2004 extended the tariff conditions laid down by the Decree of 19 December 1995. This extension was expected to end no later than 30 June 2007. The Company Portovesme, that became a non-ferrous metal producer following the privatization of Alumix, has benefited from this extension for its undertakings located in Portocuso and San Gavino. On 14 March 2005, a Law no. 80/2005 was adopted that also extended the preferential tariff granted to the company Portovesme.

On 29 October 2008, the European Commission decided to examine the state aid compatibility and after three years, on 23 February 2011, it decided that the aid granted by Law no. 80/2005 was incompatible with the

internal market and prohibited the Italian government to have it in force. The Commission also considered that the aid resulting from the Decree of 6 February 2004 was incompatible with the internal market and ordered the recovery of the aid received, in particular from the company Portovesme, for a total amount of €12.845.892,82. On 16 October 2014, following an appeal made by Portovesme against this EU Commission Decision (Portovesme/ Commission, T-291/11), the First Instance Court of EU issued its Decision and rejected the claims of the company Portovesme. On 23 December 2014, the company lodged an appeal against the Decision of the First Instance Court by alleging infringement of the principle of equality and Article 108 TFEU. Finally, on 1 February 2017, the Court of Justice decided that the Italian state aid is incompatible with the internal market.

Regarding the arguments, Portovesme argued that the principle of equal treatment had been infringed since the aid granted to Portovesme was equally granted to another company, Alcoa Trasformazioni. Thus, having been placed in a situation comparable to that of Alcoa Trasformazioni, it should have been treated equally. The Court rejected Portovesme's arguments in that it did not explain why the Court of First Instance had been wrong and advanced only the same arguments as those presented to the Court of First Instance. That plea thus, constituted not an appeal but a request for reconsideration of the application before the Court of First Instance, which is not the jurisdiction of the Court of Justice.

Portovesme also criticized the Court of First Instance for failing to take into account of the purpose of the aid granted in order to be able to examine its legality. The Court decided that the purpose of approximation of the conditions of competition existing in an economic sector from those prevailing in other Member States as well as the measures intended to compensate for possible damages that established undertakings in certain regions of a Member State are exposed, do not remove the character of a state aid. The purpose of the measure shall not be considered in order to take into account if this measure consists or not a selective advantage. Consequently, the Court dismissed the appeal in its entirety, by confirming the obligation to recover the aid granted by the Italian State.

## Renewables **what's new...**

### Greece: Workshop on the Permanent RES Tender Procedures

*by Stefania Chatzichristofi, (Athens)*

On 10 February 2017, the Greek Energy Regulatory Authority (RAE) in accordance with the provisions of the Article 7, para.2 of the Law 4414/2016 of 9 August 2016 (OJ 149 A/9.08.2016) organized a workshop to all respective stakeholders regarding the issue of the competitive tender procedures in the field of renewable energy (RES). During the workshop, RAE made an overview of the institutional and regulatory framework of the competitive procedures in RES projects; the basic principles and first considerations for their implementation. Further, the participants of the workshop posed their respective questions to RAE and useful conclusions were noted.



### Greece: RAE's Decision on the Charge of the Supplier

*by Stefania Chatzichristofi, (Athens)*

On 16 February 2017, the Greek Energy Regulatory Authority (RAE) issued Decision regarding the calculation of the «charge of the supplier», the new levy that is paid by the suppliers with the aim to overcome the current debt on the account managed by LAGIE for paying for the support provided to RES and CHP producers. This levy whose hourly maximum limit was set at the amount of 40€/MWh by RAE's Decision, for the period of 2 January 2017 to 5 March 2017, caused to load representatives economic damages following the disproportionate high level noted during the first fortnight of January 2017. By this Decision, RAE sets the hourly ceiling at €15/MWh, in order to calculate the amount of the charge of the supplier. This Decision shall be applicable retroactively from October 2016. RAE is expected to decide again on the subject on June 2017.

### Albania: New Law on RES

*by Odisea Xhelita, (Tirana)*

On 2 February 2017 the Parliament of Albania approved the Law No.7/2017 on the Promotion of the Use of Energy from Renewable Sources (RES), after a long-standing dispute between the operators of small hydropower plants in the country and the Government. The Secretariat's Dispute Resolution and Negotiation Centre facilitated the negotiations between the producers and the Albanian government and Parliamentary Committee, resulting to a compromise solution, part of which was that the Secretariat will be involved in the setting of the methodology for the calculation of the support scheme applicable to existing producers. The Law No.7/2017 is published in the Official Gazette and on the website of the Parliament.

### Romania: Order no. 8/2017 Approved regarding the Green Certificates

*by Corina Bădiceanu, (Bucharest)*

On 13 February 2017, Order no. 8/2017 of the Romanian Energy Regulatory Authority (ANRE) regarding the approval of the limit value of the trading of green certificates and of the equivalent value of a non-purchased green certificate was published in the Official Gazette no. 118/2017. According to this Order, the minimal value of the trading of green certificates is of 133,0611 lei/green certificate (approximately EUR 29,4559/green certificate), while the maximal value is of 271,0624 lei/green certificate (approximately EUR 60,0054/green certificate). Moreover, the equivalent of a non-purchased green certificate is set at 539,4450 lei/non-purchased green certificate (approximately EUR 119,7702/non-purchased green certificate) for the year 2016 and 542,1198 lei/non-purchased green certificate (approximately EUR 120,0097/non-purchased certificate) for the year 2017. The provisions of this Order will be fulfilled by the National Electricity and Natural Gas Market Operator – OPCOM S.A., by the producers of electricity from renewable sources and also by the economic operators that have the annual obligation of purchasing green certificates. The organizational entities belonging to ANRE will monitor the compliance with the provisions of the aforementioned Order.



## RENEWABLES highlight ...

### Ukraine: Recent Developments on RES Sector

by Tetyana Vyshnevska, (Kiev)

On 31 January 2017, the National Energy and Utilities Regulatory Commission (NEURC) issued Resolution No. 148 on Setting the Value of the Cost Per Unit for Non-Standard Grid Connection of Electrical Installations for the year 2017. The Resolution concerns grid connection of electrical installations, including facilities generating electricity from renewable energy sources (RES), with the installed capacity from 160 kW to 5 MW. The rates, established by NEURC for forty (40) electricity Distribution System Operators (DSOs), range from UAH 3094 to UAH 9428 (UAH 6094 for the vast majority of DSOs) per 1 kW without VAT. Although the declared objective of the Resolution is to make the grid connection procedures and associated costs more transparent, it has been heavily criticized by the expert community and Members of the Parliament. Experts claim that application of the Resolution shall result in a six fold increase in the rates of non-standard grid connection, making the majority of RES projects unprofitable, driving away potential investors and thus suspending further development of the RES sector in Ukraine. The Resolution shall come into force upon its publication in the Official Journal.

In addition, on 17 January 2017, Ukrainian Parliament adopted Law No. 1817-VIII on Amending Certain Legislative Acts of Ukraine regarding Improvement of Urban Development. The Law aims to bring current legislation in line with the best European practices, prevent unauthorized construction and abuse of the declarative principle (i.e. deliberate false categorization of construction objects to avoid a strict authorization procedure of obtaining a construction permit). In particular, instead of five (5) categories of difficulty (I-V) the Law introduces three (3) consequences classes for construction objects: CC1 - minor consequences, CC2 - medium consequences and CC3 - significant consequences. Therefore, construction objects assigned to categories I-II will now be considered CC1, categories III-IV – CC2 and category V – CC3. Obtaining a construction permit and a certificate upon completion of construction will be necessary for projects assigned to CC2 and CC3 (including RES projects). The Law is expected to become effective on 10 June 2017.

Moreover, on 13 February 2017, the draft law No. 6081 on Amending the Law of Ukraine on Regulation of Urban Development to Improve Investment Opportunities in the Field of Electricity Production from Alternative Energy

Sources was registered in the Parliament. According to the explanatory note to the bill, 4478 MW out of 5210 MW of capacity of RES projects allowed for connection to the Unified Energy System of Ukraine have already been reserved, but many of the respective RES projects have not been implemented. In order to address this issue, release the unused reserved capacities, encourage investments and completion of RES projects, the bill introduces a time-limit for technical specifications (TS) issued for grid connection of RES projects (as of now TS are valid until the completion of construction). Therefore, TS issued after the law comes into force as well as TS already issued before that will remain valid for three (3) years. The bill is being considered by the Parliament committees.



Furthermore, the draft law No. 5674 on amending the Law of Ukraine on State Regulation of Production and Turnover of Ethanol, Cognac and Fruit Spirits, Alcoholic Beverages and Tobacco Products (as regards promotion of development of domestic market of alternative fuels) was registered in the Parliament on 19 January 2017. The bill intends to deregulate and incentivize bioethanol production, by allowing the producers of ethanol for wholesale to sell bioethanol based on their license for ethanol production (a separate wholesale license costs UAH 500 thousand and therefore hinders implementation of bioethanol projects). The bill is undergoing consideration by the Parliament committees.

Finally, on 23 January 2017, electricity Transmission System Operator NPC Ukrenergo presented a package of initiatives aimed at speeding up and simplifying grid connection procedures for RES projects. The package includes, inter alia, a one-stop shop, an interactive map of the electricity grid and a so called "green calculator", which is an online algorithm for determining the tentative grid connection cost and technical specifications. The one-stop shop is currently functioning in the test mode and is expected to become fully operational as of 1 April 2017.

## Energy Efficiency **what's new...**



### EU: 2016 Energy Efficiency Progress Report

by *Tetyana Vyshnevskya, (Kiev)*

On 1 February 2017, the European Commission issued a 2016 Report to the European Parliament and the Council on the assessment of the progress made by Member States up to 2014 towards the national energy efficiency targets for 2020 and towards the implementation of the Energy Efficiency Directive 2012/27/EU, as required by Article 24 (3) thereof. Along with the analysis of achievements, the Report provides suitable recommendations for Member States. The European Parliament and the Council are expected to provide their views on the presented assessment.

### EU: Commission Issues Guidance on Energy Production from Waste

by *Tetyana Vyshnevskya, (Kiev)*

On 26 January 2017, the European Commission adopted the Communication on the role of waste-to-energy in the circular economy, as part of the EU Action Plan for the Circular Economy adopted on 2 December 2015. The Communication provides guidance to EU Member States (MSs) on the recovery of energy (electricity, heat and fuel) from waste in accordance with the objectives of the Action Plan for the Circular Economy and the EU waste hierarchy. All MSs are expected to take this guidance into account when evaluating and revising their waste management plans.

### EU: New Guidelines for the Introduction of Individual Metering and Billing

by *Andriani Kantilieraki, (Athens)*

On 23 January 2017, the European Commission published a new set of guidelines for the better implementation of the EU's Energy Efficiency Directive (2012/27/EU). According to the Directive, energy efficiency goals in multi-apartment or multi-purpose buildings in which central or collective systems are in place, can be achieved (among other measures) by the installation of individual measurement devices, «heat meters» or «heat cost allocators». By the enforcement of this system, known as «sub – metering» individual consumers are enabled to pay energy bills separately for their own consumption instead of paying based on different systems such as in proportion to the share of the building's total floor area occupied by them. This practice appears to be effective in stimulating energy efficient behaviour and generating energy savings for the whole building in question. Thus, the purpose of this guidance, which was initially published in June 2016 but has been altered as a result of workshops held with representatives of national authorities and stakeholders, is to advise the aforementioned parties on determining which buildings may be excluded from the Directive's requirement for sub – metering as well as to propose the best strategy to ensure an effective «cost allocation» practice in the sense that both individual occupants' energy consumption and the energy efficiency of buildings are taken into account as a whole in the process of billing the consumers.

### BiH: FBiH Adopted the Law on Energy Efficiency

by *Nebojsa Milanovic, (Banja Luka)*

On 2 February 2017, the Parliament of the Federation of Bosnia and Herzegovina (FBiH) one of the two constitutive Entities of Bosnia and Herzegovina adopted the law on Energy Efficiency. The law stipulates the improvement of energy efficiency in FBiH as well as national objectives for achieving efficient energy consumption until 2020 which were set by the National Energy Efficiency Action Plan (NEEAP). The law provides a series of measures which should lead to efficient energy consumption. These measures include, among others, renovation and maintenance of facilities used by local governments and public enterprises founded by local governments and improvement of municipal services such as public lighting, water supply, waste management and transport. Suppliers of electricity, thermal energy and natural gas are obliged to provide end-consumers with measuring devices which will measure energy consumption based on actual data, while public authorities and public enterprises are obliged to perform power management in areas in which they operate.

## Environment **what's new...**

### EU: Environmental Implementation Review

*by Maria Marda, (Athens)*

On 3 of February 2017, the European Commission adopted the European Implementation Review (EIR) package, a two-year cycle of analysis and dialogue about the improvement of the implementation of existing EU environmental policy and legislation concerning compliance and infringement procedures, aiming to achieve the Sustainable Development Goals. This EIR package includes 28 country reports and factsheets about the application of EU environmental policies and laws on each Member State; a Communication recognizing common challenges across countries, identifying successful practices enforced by some Member States, providing a preliminary assessment of possible root causes of poor implementation, and proposals of common efforts aiming to achieve improved results (better quality of life, focus investments, reduction of legal procedures against Member States, creation of green jobs); and an Annex to the Communication, whereby the suggested by the Communication actions on better environmental implementation are summarized. According to the reports, the most pressing implementation gaps are observed in the policy fields of waste management, nature, biodiversity, air quality, noise, water quality and management. Regarding the EIR policy findings, indicative root causes for implementation gaps include ineffective coordination among local, regional and national authorities; lack of administrative capacity and insufficient financing; lack of access to data, knowledge and unreliable data; inadequate compliance assurance mechanisms; lack of integration and policy coherence. Consequently, the Member States, supported and guided by the Commission, have the liability to cooperate with each other as well as with local and regional authorities and stakeholders and take any necessary action in order to overcome poor implementation of environmental policies.

### EU: Amendments to EU Emissions Trading System

*by Tetyana Vyshnevskya, (Kiev)*

On 15 February 2017, the European Commission's Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments passed the first reading in the European Parliament. The main objective of the Proposal is to reform the existing EU Emissions Trading System in its fourth phase (2021-2030) with the view of fulfilling the EU's commitments under the Paris Agreement on climate change. The Proposal shall be finalized during negotiations with the Council.



for further information, please contact **Editing authors**

	<p>Mira Todorovic Symeonides, LL.M. Partner <b>Rokas (Athens)</b></p>	<p>R o k a s L a w F i r m 25 &amp; 25A, Boukourestiou Str.,106 71 Athens, Greece E m.todorovic@rokas.com ; athens@rokas.com</p>
	<p>Stefania Chatzichristofi, LL.M, M.Sc. Associate <b>Rokas (Athens)</b></p>	<p>R o k a s L a w F i r m 25 &amp; 25A, Boukourestiou Str. 106 71 Athens, Greece, E athens@rokas.com</p>
	<p>Tetyana Vyshnevskaya Associate <b>Rokas (Kiev)</b></p>	<p>IKRP Rokas &amp; Partners Ukraine 15, Panasa Lyubchenko Str.,office 320 Kiev 03680, Ukraine, E kiev@rokas.com</p>
	<p>Dr. Stavroula Antoniou, LL.M. Senior Associate <b>Rokas (Athens)</b></p>	<p>R o k a s L a w F i r m 25 &amp; 25A, Boukourestiou Str. 106 71 Athens, Greece, E athens@rokas.com</p>

## Authors

### *Rokas (Athens)*

	<p>Viktoria Chatzara, LL.M. Associate</p>	<p>R o k a s L a w F i r m 25 &amp; 25A, Boukourestiou Str. 106 71 Athens, Greece, E athens@rokas.com</p>
	<p>Paraskevi Charalampidi Associate</p>	<p>R o k a s L a w F i r m 25 &amp; 25A, Boukourestiou Str. 106 71 Athens, Greece, E athens@rokas.com</p>
	<p>Andriani Kantilieraki Associate</p>	<p>R o k a s L a w F i r m 25 &amp; 25A, Boukourestiou Str. 106 71 Athens, Greece, E athens@rokas.com</p>
	<p>Maria Marda Associate</p>	<p>R o k a s L a w F i r m 25 &amp; 25A, Boukourestiou Str. 106 71 Athens, Greece, E athens@rokas.com</p>

## Authors (cont.)

### Rokas (Banja Luka)



Nebojsa Milanovic  
Associate

Rokas Law Firm  
- ADVOCAT Nebojša Milanović  
1 Dositeja Obradovića, 78 000 Banja Luka  
Bosnia & Herzegovina, E banjaluka@rokas.com

### Rokas (Belgrade)



Vuk Stankovic, LL.M.  
Associate

IKRP & Partners Belgrade  
30, Tadeusa Kosciuskog Str., 11000 Belgrade  
Serbia, E belgrade@rokas.com



Mirjana Mladenović, LL.M.  
Associate

IKRP & Partners Belgrade  
30, Tadeusa Kosciuskog Str., 11000 Belgrade  
Serbia, E belgrade@rokas.com



Stefan Pavlovic  
Associate

IKRP & Partners Belgrade  
30, Tadeusa Kosciuskog Str., 11000 Belgrade  
Serbia, E belgrade@rokas.com

### Rokas (Bucharest)



Corina Bădiceanu, LL.M.  
Associate

I. K. Rokas & Partners  
- Constantinescu, Radu, Ionescu SPARL  
45 Polona Str., District 1, Bucharest  
Romania, E bucharest@rokas.com

### Rokas (Skopje)



Simonida Shosholcheva Giannitsakis, LL.M.  
Partner

IKRP Rokas & Partners d.o.o.  
53/1, Macedonia Str. (ex. Marsal Tito Str.)  
1000 Skopje, FYR of Macedonia  
E skopje@rokas.com

## Authors (cont.)

### Rokas (Sofia)



Apostolos Christakoudis  
Associate

Rokas Law Firm Branch Bulgaria, I. Rokas  
12-16 Dragan Tzankov Blvd. Lozenetz Sq.  
1164 Sofia, Bulgaria, E sofia@rokas.com

### Rokas (Thessaloniki)



Evidiki Evangelopoulou  
Associate

R o k a s   L a w   F i r m  
Tsimiski & 3 G.Theotoka Str.  
5 4 6 2 1 Thessaloniki  
Greece, E thessaloniki@rokas.com

### Rokas (Tirana)



Odisea Xhelita  
Associate

IKRP Rokas & Partners Albania sh.p.k.  
Andon Zako Çajupi Str., Building No. 3, 4th Floor, Apt. 11  
Tirana, Albania, tirana@rokas.com

### Rokas (Zagreb)



Sanja Tolj Par, LL.M.  
Associate

Rokas Law Firm – Par & Gradac Law Firm  
Kralja Držislava 2, Zagreb  
Croatia, E zagreb@rokas.com

A publication by **Rokas**...

intended for the information of our clients and contacts, aiming to highlight selected recent legal and regulatory developments in the SEE countries and the EU. The highlights do not cover every important topic; they include limited information on the selected topic without extending to legal or other advice. Readers should not act upon them without taking relevant professional advice. Copyright © 2017, Rokas, All rights reserved.