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EU: The Council of the European Union Adopts Draft Conclusions on the Implementation of the Energy Union

by *Stefania Chatzichristofi (Athens)*

On 21 May 2015, the Council of the European Union published a note with draft conclusions drawn concerning the implementation of the Energy Union in Europe with a view to reaching an agreement on final adoption of conclusions at the Energy Council meeting of 8 June 2015. The said conclusions are presented after the Communication of EU Commission of 25 February 2015 and the report of European Council of 19 and 20 March 2015 that both point out the importance of such an achievement like the completion of the Energy Union for Europe. In this context, the Council of the European Union proposed this note focusing on two main directions: the consumer's interest and the incentives for investment without omitting to stress out the need for further improvement. In this scope, the Council reaffirms the five pillars of Energy Union which consist of a fully integrated, secure and competitive European Energy market, energy efficient and with a strong potential of decarbonisation of the economy. Consequently, the consumers, either households or business should be provided with safe and affordable energy whereas the investors should be convinced about a secure and robust market.

First of all, the Council points out the need of affordable and stable energy prices for the consumers so that they will be connected to a flexible European internal market which will provide them secure and low-carbon energy supplies, in an attempt to decrease the dependence of energy from other countries and lead progressively to decarbonisation. Moreover, it is of high importance that the existing European legislation concerning energy is fully implemented and further protection to vulnerable consumers is provided. Furthermore, the Council underlines that the consumers should be informed on the energy efficiency measures and be provided with incentives in order to save energy. As far as investments are concerned, the Council of the European Union acknowledges the need of a stable and transparent framework as well as an efficient carbon market. In addition, the Council underlines the benefits of regional cooperation and investments in the domains of energy efficiency, renewable energy and infrastructure. Further, the independence of European energy market from imports can be achieved through the development of Projects of Common Interest (PCI) such as the North-South Corridor in the gas sector. A special attention should be given according to the Council to the less interconnected in the energy market Member States like Malta, Cyprus and Greece.

To end with, the Council of the European Union calls all EU institutions and Member States to implement the five guidelines concerning Energy Union strategy and invites the EU Commission to report by December 2015 several initiatives for the governance of Energy Union and the regional cooperation as well as to examine the existing financing and investment structures.

EU: EU Member States and Other Countries Sign the International Energy Charter

by Mira Todorovic Symeonides (Athens)

On 21 May 2015, the International Energy Charter was signed by over 65 countries and organisations including the European Union and all EU Member States. The new Charter updates the existing European Energy Charter of 1991, signed by 64 states, including all EU Member States as well as the European Union and EURATOM. The objectives of the European Energy Charter were the integration of energy markets between the countries of Eastern Europe and the former Soviet Union with those of Western Europe. Subsequently, in 1994 a legally binding basic agreement was developed - the Energy Charter Treaty - signed or acceded to by 54 signatories, including the European Union and EURATOM, regulating trade, transit and investment protection in the energy sector and providing binding dispute resolution procedures.

The International Energy Charter is a declaration of intention, without legal binding obligations, with the aim to engage as many new countries, willing to cooperate in the field of energy, as possible. The signatory parties intend to take action in the fields of energy trade such as development and liberalisation of international trade in energy; access to energy resources and their exploration and development on a commercial basis; removal of technical, administrative and other barriers to trade, technologies and energy related services; promotion of harmonisation of rules, regulation and standards in the field of energy; facilitation of access to transport infrastructure; promotion and protection of energy investments; formulation of stable and transparent legal frameworks, and promotion of energy efficiency and environmental protection. Although the signing of the International Energy Charter does not oblige in any way a State to accede to the legally binding Energy Charter Treaty, signatories to the latter are hopeful that the signing of the International Energy Charter will encourage non signatories to the Energy Charter Treaty to consider also acceding to the latter.

FYR of Macedonia: Energy Regulator Adopts Rulebook for Monitoring the Energy Market

by Simonida Shosholcheva Giannitsakis (Skopje)

On 18 May 2015, the Energy Regulatory Commission (ERC) adopted a Rulebook for monitoring the operation of the energy market. The goal of this Rulebook is to promote efficiency, competition and transparency on the energy market. The rulebook sets rules for monitoring eventual distortions of competition such as unfair competition and other activities related to the functioning of the energy markets that are not in compliance with the laws and regulations as well as the obligations arising from the licences for performing energy activities. According to this Rulebook, the ERC will cooperate with the Competition Authority regarding measures and prohibition of activities and behaviours that fall under the competences of the Competition Authority. This Rulebook, which was required to be adopted by ERC according to the Law on Energy, appears to summarise the obligations of all stakeholders in the energy sector, defined in different laws, bylaws and regulations. However, the ERC, as the regulatory body responsible for implementing these regulations, does not have a separate organisational unit that could deal, on a daily basis, with the monitoring of the energy market. What is unusual in this Rulebook is the lack of procedures and measures for penalising the energy market participants breaching the obligations determined in this Rulebook. This is attributed to the lack of provisions in the Energy Law giving competence to the ERC to impose penalties for breaches of such obligations. It is expected that these crucial competences will be provided in the new Energy Law, which is planned to be adopted by the end of the year.

Ukraine: Government Approves the List of Enterprises to be Privatised in 2015

by Tetyana Vyshnevskya (Kiev)

On 12 May 2015, the Cabinet of Ministers of Ukraine issued Resolution No. 271 on carrying out transparent and competitive privatisation in 2015. In Annex 1 to the Resolution, the Government approves the list of enterprises to be privatised in 2015. The list includes, inter alia, companies of the extraction and energy industry, in particular, separate divisions of coal mining entities (over 20 coal mines) and different shares of 3 processing plants (38.25% - 41%); State Concern Ukrtoif (peat extraction and processing); 78.29% of shares of PJSC Centrenergo (electricity and heat production); 99.833% of shares of PJSC Khersonska CHPP, 99.99% of PJSC Odeska CHPP, 100% of PJSC Mykolaivska CHPP, 99.928% of PJSC Dniprodzerzhynska Central Heat & Power Plant; integral property complexes of Kalush CHPP, Kostiantyniv, Myhiiv and Pervomaisk Hydro Power Plants; 25% of PJSC Donbasenergo, PJSC Kyivenergo, PJSC DTEK Dniproenergo, different shares of 10 oblenergos (from 25% to 70.009%) and others. The enterprises shall be sold at open auctions with no limitations for participation except for the instances provided by the legislation and with due account of imposed sanctions. The State Property Fund shall ensure sale of state property listed in Annex 1 and submit to the Government proposals for approval of privatisation conditions for the instances envisaged in the legislation and proposals for the privatisation conditions as regards sale of entities together with the land plots. The State Property Fund and the Ministry of Economic Development and Trade of Ukraine shall carry out road-shows for investors.

Romania: Constitutional Court Finds the Time Period for Contesting Resolutions of the Energy Regulator Unconstitutional

by Corina Badiceanu (Bucharest)

On 8 May 2015, Decision no. 136/2015 of the Romanian Constitutional Court regarding the 30-day period of time within which the decisions and orders issued by the Romanian Energy Regulatory Authority (ANRE)'s President can be appealed was published in the Official Gazette under the number 136/2015. The Romanian Constitutional Court ascertained that this 30 day-period of time is unconstitutional, as such provision breaches the constitutional principles of free access to justice, the right to a fair trial, the rights of a person harmed by a public authority and the principle of judicial control of public authorities' administrative acts. The Decision will take place according to the general rules of the Administrative Law no. 554/2004, respectively at any time and by means of any action if the decisions/orders have general applicability and within the terms provided by the Law no. 554/2004, and by means of any action and/or at any time and by means of a plea if the decisions/orders have individual applicability.



Albania: New Electricity Law Adopted

by Eris Çoba (Tirana)

On 30 April 2015, the Albanian Parliament adopted Law no. 45/2015 on Energy Power Sector aiming to achieve full compliance with the Acquis Communautaire for this sector, principally with 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, as adapted by the Decision 2012/04/MC-EnC of the Ministerial Council of the Energy Community. The

Law regulates the issues of the opening of the electricity market, price deregulation, security of supply, better protection of the consumers' interests, consumers' information, public service obligations, wider competences for the energy regulators, and promotion of the regional collaboration on system operators and regulatory authorities level. In regard to networks it provides for the unbundling of the accounts for energy licensed activities and particularly for distribution and supply activities, unbundling of the distribution system operator, certification of the Transmission System Operator (TSO), connection and access to network, adoption of the network codes, TSO's acting as market operator, development of the transmission grid, management of reduced capacity and allocation of interconnection capacities, and intelligent measuring systems. The TSO's ten-year network development plans will be approved by the Albanian Energy Regulator (ERE). The Law also ensures implementation of intelligent measuring systems providing the obligation of the Distribution System Operator (DSO) to prepare within one year from enactment of the Law a feasibility study for net metering which would take into consideration all long term costs and benefits that the market and the customers will have. After that, the DSO shall prepare a schedule for the implementation of the metering system within 10 years period.

The Energy Community Secretariat worked closely with the Albanian Government in preparation of the text of the law in order to ensure its compliance with the Energy Community acquis and obligations undertaken by Albania as a Contracting Party of the Energy Community.

Energy Community/ FYR of Macedonia: FYR of Macedonia Is Requested to Rectify Failure to Open its Electricity Market

by Simonida Shosholcheva Giannitsakis (Skopje)

Following the three-step dispute settlement procedure, the Energy Community Secretariat submitted a Reasoned Opinion as a second step of a procedure initiated against former Yugoslav Republic of Macedonia due to the failure of the country to fully open the electricity market. In the Reasoned Opinion, the Secretariat reiterates its view that the amendments to the country's Energy Law adopted in October 2014 deprive small businesses and all household customers of their right to purchase electricity directly from the supplier of their choice by obliging them to continue purchasing electricity from the incumbent monopoly supplier after the 1 January 2015 market liberalisation deadline set in Energy Community law. According to the Secretariat, the postponement of full market liberalisation until 2020 represents a severe breach of the Treaty establishing the Energy Community. While the Government justified the postponement of the opening of the market by a risk of "possible drastic increase of the prices of electricity for the households.", the Secretariat considers that the main reason for his postponement was the intention to protect the incumbent supplier from any actual or potential competition by prolonging its legal supply monopoly for a significant period of time. The country is now requested to rectify the identified issues of non-compliance within a time limit of two months.

Greece: Adjustments to Charges Paid by Electricity Consumers for 2015

by Lazaros Sidiropoulos (Athens)

On 29 April 2015, Law 4234/2015 was published introducing an amendment to the Greek energy law (4001/2011) determining that the rate of ETMEAR, the special duty paid by electricity consumers to finance RES production and other causes, will not change for 2015. This amendment reflects a reaction of the Greek Ministry of Reconstruction of Production, Environment and Energy to RAE's decision no. 772/2014, which was published in March 2015, announcing an increase of ETMEAR for 2015. The new Minister objected to this decision of RAE because it would lead to a raise of electricity bills of electricity consumers and practically annulled this decision by introducing this amendment to the energy law which shall apply retroactively (from 1 January 2015) reducing

the rate of ETMEAR back to the levels of 2014. This legal amendment raised discussions because, according to the energy law, determination of ETMEAR rates is a competence of RAE. Moreover, one of the reasons given by RAE for this increase was that it was meant to finance the State aid which has been recently (in December 2014) decided to be provided by the Greek State to energy intensive consumers based on a national scheme established for the compensation of specific energy-intensive industrial sectors for increased energy costs resulting from greenhouse gas emissions rights payable by power producers.

Further, on 19 May 2015, decisions no.105/2015 and 106/2015 of the Greek energy regulator RAE were published, amending the upper annual limit for 2015 for ETMEAR as well as for another charge paid by electricity consumers, i.e. the public service obligations (YKO). As a result of a change in the annual consumer price index, the upper limit of ETMEAR payable by consumers for 2015 was decreased to the amount of €978.117 instead of €991.000 in 2014, while the upper limit for YKO was decreased to the amount of €793.525 for 2015 instead of €803.977 in 2014.

Ukraine: Regulation of Power Industry Activities on the Territory not Controlled by the State Authorities

by Tetyana Vyshnevskaya (Kiev)

On 7 May 2015, the Cabinet of Ministers of Ukraine adopted Resolution no. 263 on particularities of regulation of relations in electric power industry on the territory where state authorities temporarily do not perform their powers in part or in full (Territory out of Control or ToC). The Government was authorised with the power to regulate legal, economic and organisational relations regarding sale of electric energy from the Wholesale Electricity Market to the ToC as well as production, transmission, distribution, supply, trade and use of electrical energy at the said territory. According to the Resolution no. 263, electricity producers operating at the ToC shall sell electricity to electricity distribution companies (by local networks) and electricity supplying companies as per regulated tariff, to users or other consumers at the said territory in accordance with the multilateral agreement, which shall regulate issues of tariff setting, compensation of technological losses of electricity during its distribution, settlement of accounts, services of electricity distribution and supply and other issues. Starting from 1 May 2015, purchase and sale of electricity from the ToC to the territory of Ukraine under control of state authorities (hereinafter – the TuC) and vice versa shall be performed by the SE Energorynok (the guaranteed wholesale supplier) at the TuC and by electricity producers (with electricity generating installations located at the ToC and listed by the Ministry of Energy and Coal Industry) and/or by PJSC DTEK Donetskoblenenergo in Donetsk region and LLC Luhansk Energy Union in Luhansk region. Dispatching at the ToC shall be performed by a separate division of the NPC Ukrenergo (the TSO), i.e. Donbas Electric Power System. Companies that perform business activities on both territories (the TuC and the ToC) shall carry out separate accounting. The Resolution contains a list of limitations for the SE Energorynok, including the obligation to sell/purchase only the difference between electricity flows under certain agreements with PJSC DTEK Donetskoblenenergo, LLC Luhansk Energy Union and electricity producers at a weighted price of generating thermal power stations, which was set two calendar months prior to the month of such purchase/sale as well as responsibilities of electricity producers, supplying companies and Donbas Electric Power System.



Ukraine: New Natural Gas Market Law Enters into Force

by Tetyana Vyshnevska (Kiev)

On 8 May 2015, Law no. 329-VIII on the natural gas market, adopted on 9 April 2015, came into force. The Law provides legal grounds for the operation of the natural gas market of Ukraine based on the principles of free competition, consumer protection, security of supply, integration of the Ukrainian gas market with the gas markets of the Energy Community (EnC) Contracting Parties, and aims at implementation of the EU *acquis* on energy, in particular, of Directive 2009/73/EC concerning common rules for the internal market in natural gas; the Directive 2004/67/EC concerning measures to safeguard security of natural gas supply; and the Regulation (EC) No. 715/2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No. 1775/2005. The Law requires from the Ukrainian authorities and courts to take into account legal precedents of the EnC and the EU, and the practice of the European Commission and the EnC Secretariat as regards implementation of the abovementioned regulations, and envisages close cooperation with the EnC Secretariat, including consultations prior to approval of licensing conditions and other regulations.

According to the Law, a) the activities of the wholesale natural gas seller do not require licensing; b) tariffs for gas transportation, distribution and storage services as well as services of LNG installation shall be non-discriminating, transparent, established with due account of economically justified expenses of relevant market participants and appropriate cost effectiveness, facilitate effective trade and develop competition at the Gas Market, prevent cross-subsidizing, and develop economic incentives for investments, c) the Government shall establish criteria for vulnerable consumers that will be entitled to subsidies and other targeted aid; d) the supplier of last resort shall be selected by the Government in the tender procedure for a 3 year period; f) market participants shall have equal rights for connection or access to the Gas Transportation System (GTS), Gas Distribution System (GDS), Gas Storage Facilities (GSF) and the LNG installation, while the reasons for denial of connection or access are specified in the law. Producers of biogas or other gas from alternative sources will be granted access and connection rights provided that technical regulations and security standards are observed, and physical and technical parameters of the biogas or other gas from alternative sources correspond with the standards applied to natural gas. In order to facilitate investments in new infrastructure and significant reconstruction of the existing infrastructure, the Law establishes that such infrastructure may be exempted from certain rules on providing access. GTS, GDS and GSF Operators will prepare Codes and Ten-Year Network Development Plans (and submit them to the Regulator for approval on an annual basis), as well as compliance programs. Unbundling of the GTS Operator shall be performed in accordance with either the Ownership Unbundling or the ISO unbundling model. Although the Law came into force on 8 May 2015, it shall be enacted on 1 October 2015 except for certain provisions which shall be enacted in 2016 and 2017.

Greece: Regulator Amends Gas Supply License of Incumbent Gas Supplier to Perform CNG and LNG Supply

by Lazaros Sidiropoulos (Athens)

On 12 May 2015, Decision no. 129/2015 of the Greek energy regulator RAE was published amending the gas supply licence of the incumbent Greek gas supplier DEPA so as to enable the latter to expand its scope of business activity beyond the existing gas transmission system (ESFA) operated by the gas TSO DESFA and the distribution networks operated by the three local gas distribution companies (EPAs). This amendment has been requested by DEPA on 11 September 2014 with the aim to meet the need for gas supply of potential customers situated in areas not covered by the existing gas transmission and distribution infrastructure. Such potential consumers are power generators (in the non-interconnected islands), industries, large commercial customer (e.g. hotels), and large urban customers (hospitals, stadiums, schools etc). Gas will be transported to these customers initially in the form of Compressed Natural Gas (CNG) and later, when the necessary infrastructure is available, also in the form of Liquefied Natural Gas (LNG). Except for allowing DEPA to perform gas supply also beyond the gas transmission system and distribution network, RAE's Decision also allows DEPA to use for the above purposes the existing CNG bus fueling stations in Attica and in Thessaloniki, and in the future also use new stations, under the condition that DEPA observes certain metering and information requirements.



EU: European Funding for Energy Infrastructure Projects

by Stefania Chatzichristofi (Athens)

On 7 May 2015, the European Commission announced that the EU's Innovation and Networks Executive Agency (INEA) decided to finance 15 energy infrastructure projects in Europe. The said projects have been selected following the EU's Connecting Europe Facility (CEF) 2014 call for proposals aiming to upgrade existing and develop new energy transmission infrastructure as well as support deployment of large-scale renewable energy. Among them, €279.000 will be granted for studies regarding the construction of three electricity lines in Bulgaria and €1.8 million will be granted for the preparation of designs, technical details and administrative work for the construction of an offshore LNG facility in Greece and its connection to the national natural gas transmission system.

In addition, on 20 May 2015 the European Commission announced that the European Investment Bank (EIB) approved to provide the amount of €8 billion in order to finance investment projects including four that concern energy efficiency and renewable energy, a fact that underlines the importance that EIB gives to the sector of energy. The projects that will be financed concern investments for eliminating heating bills of households in France, the amelioration of gas distribution network in Spain, a project regarding the industrial energy use in Finland and finally several renewable energy connections to Northern and Western Europe. These projects may benefit from an EU guarantee from the European Fund for Strategic Investments (EFSI) once it is established, although this will depend on certain criteria still being under negotiation.

Energy Community: Secretariat Submits Three Reasoned Requests to the Ministerial Council

by Viktoria Chatzara (Athens)

On 12 May 2015, the Energy Community Secretariat submitted to the Ministerial Council three Reasoned Requests according to the dispute settlement procedure of the Energy Community, concerning Albania, Bosnia & Herzegovina and FYR of Macedonia with respect to case numbers ECS-3/14, ECS-4/14 and ECS-5/14 respectively. The Reasoned Requests, with which the Secretariat seeks a decision from the Ministerial Council stating that the above Contracting Parties have not fulfilled their obligations under the Energy Community law, are the next step of the dispute settlement Procedure following the submission of Reasoned Opinions from the Secretariat against Albania, Bosnia & Herzegovina and FYR of Macedonia on 24 February 2015, as the Contracting Parties did not take any actions to comply with their obligations within the specified time limit of two months.

More specifically, the breach of the Energy Community law by the above Contracting Parties consists in their failure to adopt and notify to the Secretariat their National Renewable Energy Plans as described by Directive 2009/28/EC on the promotion of the use of energy from renewable sources. Pursuant to the applicable provisions, the Contracting Parties were obliged to submit their National Renewable Energy Plans to the Secretariat by 30 June 2013. In this context, Albania, Bosnia & Herzegovina and FYR of Macedonia did not submit such final plans and the Secretariat launched the dispute settlement procedure, according to the detailed rules of the Energy Community. Following the Reasoned Requests from the Secretariat and in order for the Ministerial Council to take its decision, an Advisory Committee will be requested to submit an opinion on the Reasoned Requests, which, however, will not be binding for the Ministerial Council. It is expected that the decision on the breach will be taken by the Ministerial Council in its meeting of 16 October 2015.

EU/ Poland: Commission Requests Poland to Fully Apply the Provisions of the RES Directive

by Izabela Jurek (Warsaw)

The European Commission addressed recently to Poland a reasoned opinion, calling for ensuring the correct implementation of the Directive on renewable energy sources (Directive 2009/28/EC) in particular with regard to biofuels. As is known, in the transport sector the RES Directive establishes for all Member States a target of 10% of the share of energy from renewable sources. In order to achieve this purpose, the biofuels must meet the requirements of sustainable development. This means that the raw materials for the production of biofuels may not come from valuable areas in terms of biodiversity, such as protected areas, or areas that involve large amounts of carbon, such as forests or peat lands. Member States must also treat biofuels and their raw materials equally regardless of their origin. Poland, by passing the new act on renewable energy sources in February this year, has transposed the majority of the provisions of the Directive so far. However, in the view of the recent opinion, the Polish legislation unreasonably differentiates treatment of sustainable biofuels and raw materials according to their geographical origin. Failing to comply with the European Union regulations may result in imposing on Poland the financial penalties which incidentally have been withheld after the cancellation of the previous proceedings forcing Poland to pass the renewable energy sources act.

Montenegro: Public Consultation on the Concession Act for Construction of Small HPPs

by Mira Todorovic Symeonides (Athens)

On 8 May 2015, the Government of Montenegro passed a decision to organise a new, fifth, tender for construction of small HPPs. The Montenegro National Renewable Energy Action Plan predicts construction of small HPPs with installed capacity of 132 MW until 2030. Until now the Ministry of Economy has conducted 4 tender procedures and concluded concession agreements for 21 water courses with predicted total installed capacity of 73 MW. This fifth tender will be published for the water courses of Bukovica, Stitaricka rijeka, Slatina, Bistrica and Bjelovicka. The first step in organisation of the tender was drafting of the Concession Act regulating the main issues regarding the tender for the three of the water courses (Bukovica, Bistrica and Stitaricka Rijeka) for which the concession will be offered for the first time.

On 12 May 2015, the Montenegrin Ministry of Economy launched a public consultation on a draft Concession Act regarding granting of water concession for the construction of small HPPs of the water courses Bukovica, Bistrica and Stitaricka River. The public consultation is planned to last until 12 June 2015. The draft Concession Act contains data and regulations on issues such as conditions and procedures for organising public tenders for granting concessions, basic parameters for the preparation a feasibility study, data on concession fees, documents prepared for the potential participants, duration of concession, conditions for connection to the distribution network and environmental protection. The total predicted installed capacity on these three water courses is 7.2 MW while the predicted total annual production of electricity would be up to 30,9 GWh. The Ministry also prepared and published the respective draft Concession Agreement.



EU: European Commission Launches Sector Inquiry into Member States' Capacity Mechanisms

by Lazaros Sidiropoulos (Athens)

On 29 April 2009, the European Commission issued a decision to initiate a State aid sector inquiry into national electricity capacity mechanisms [C(2015) 2814 final] pursuant to Article 20a of Council Regulation (EC) No 659/1999. Such mechanisms are measures usually consisting in offering additional rewards to power producers (on top of income obtained by selling electricity on the market) for ensuring that adequate electricity capacity is available at all times to avoid black-outs. Criteria for assessing compatibility of capacity mechanisms with State aid rules were already provided in Commission's 2014 Guidelines on State aid for environmental protection and energy. Accordingly, Member States have to demonstrate, firstly, that such mechanisms are necessary and, secondly, that they are designed in a way that they do not distort competition. Within the framework of the announced sector inquiry the Commission wishes to gather information in order to assess whether above criteria are fulfilled. The Commission is particularly concerned that, because these capacity mechanisms are mostly being introduced in an uncoordinated manner, they risk being inefficient and materially distorting cross-border

trade and competition between the various capacity providers as well as generally distorting price formation in the internal electricity market. Moreover, they may include only certain generation technologies or exclude non-generation activities such as demand side response. Further, they may also disregard the contribution that capacity providers outside national borders and improved interconnection with neighbouring markets can make to ensure security of electricity supply. In order to gain a better understanding of the functioning of these mechanisms, the Commission will initially request information from a representative sample of EU Member States that have capacity mechanisms in place or are considering them; different sets of questions will be sent to public authorities and market participants in eleven Member States (Belgium, Croatia, Denmark, France, Germany, Ireland, Italy, Poland, Portugal, Spain and Sweden) and will then publish for public consultation its preliminary findings before the end of 2015 with the aim to publish the final results by mid-2016.

IMF: An Unexpected Supporter of Clean Energy Technologies

by Athina Siafarika (Athens)

In May 2015, the International Monetary Fund (IMF) published a Working Paper titled "How large are Global Energy Subsidies?". Interestingly, this paper has managed to put a price on the direct and indirect subsidies that support fossil fuels, showing that the expected subsidy for fossil fuels during 2015 is projected to be \$5.3 trillion for one year. To put it differently, for the year 2015, approximately 6.5% of global gross domestic product (GDP) will be dedicated to subsidising the use of fossil fuels. To come to this conclusion, the IMF examined local pollution, public health effects, direct incentives and other related costs.

This way, the IMF report seems to outplay the arguments put forward by the fossil fuel industry and their supporters against clean energy being too expensive to be widely used. According to the same paper, the largest subsidy will be for coal, largely because of the underpriced effects of emissions and other environmental costs on public health and local resources. The impact on the global climate is important as well. The remaining fossil fuel subsidies will be channelled to support petroleum. More petroleum subsidies will be in the form of direct supports, especially among oil producing countries, the indirect costs being significant as well.

On the other hand, there have been remarkable declines in the cost of wind and solar power over the past decade, making the balance leaning a bit more in favour of clean energy supporters. The IMF report comes to support the latter. Nevertheless, it should be noted that the "dispute" between fossil fuel and clean energy supporters is of uncertain outcome. However, a "battle" has certainly been won by the clean energy supporters.

Romania: European Commission Approves Temporary Rescue Aid for State-Owned Electricity and Heat Producer

by Corina Badiceanu (Bucharest)

On 21 April 2015, the European Commission announced that it approved a temporary rescue aid of RON 167 million (approx. 37.7 million Euro) to be granted by the Romanian authorities to Complexul Energetic Hunedoara, a state-owned electricity and heat producer in Romania, as this rescue aid was found to respect the European rules of state aid. The Commission noted in particular that the temporary rescue aid was limited to the amount necessary to allow Complexul Energetic Hunedoara to continue operating its power plants in the following six months. At the end of the said six months, Complexul Energetic Hunedoara will either pay back the amount of the temporary rescue aid or Romania will notify to the Commission a restructuring plan that will establish the measures necessary to ensure the company's long-term liability.



EU: Regulation Establishing a Network Code on Interoperability and Data Exchange Rules

by Mira Todorovic Symeonides (Athens)

On 30 April 2015, the European Commission adopted Regulation (EU) 2015/703 establishing a network code on interoperability and data exchange rules (the Code) which was published in the OJ L 113/13 as of 1 May 2015. The Code was adopted in accordance with the procedure and requirements of articles 6 and 8 (6) (d) and (e) of Regulation (EC) 715/2009 on conditions for access to the natural gas transmission network and repealing Regulation (EC) 1775/2005. According to the above provisions, two areas which should be covered, among other issues, by network codes are the data exchange and settlement rules as well as the interoperability rules. Such a network code was now established by Regulation (EU) 2015/703 including rules regarding interoperability and data exchange as well as harmonised rules for the operation of gas transmission systems.

The Code was established in order to encourage and facilitate efficient gas trading and transmission across gas transmission systems within the EU, enabling necessary harmonisation in those areas and leading to effective market integration. In order to facilitate commercial and operational cooperation between adjacent transmission system operators the Code regulates the mandatory terms of interconnection agreements covering, among others, the following issues: rules for flow control, measurement principles for gas quantities and quality, rules for the matching process, rules for the allocation of gas quantities, communication procedures in case of exceptional events, settlement disputes arising from such interconnection agreements, and related amendment process. ENTSOG is requested to develop a template interconnection agreement until 30 June 2015 which should be finalised, after taking into consideration the opinions of ACER and NRAs, by 31 December 2015. In order to reinforce transparency and cooperation between adjacent TSOs the Code also establishes common rules regarding harmonisation of data exchange, use of a common set of units, and applicable procedures in relation to gas quality and odourisation. The Code, except for the provisions regarding the development of the model interconnection agreement, shall apply from 1 May 2016. While the Code is primarily applicable only to interconnection points, certain provisions regarding data publication, information provision on short-term gas quality variation and long-term monitoring on gas quality have a broader scope of application than solely interconnection points.

Greece/ Bulgaria: Agreement Signed to Expedite Construction of Gas Pipeline Connecting Greece and Bulgaria

by Dimitris Nisanakis (Athens)

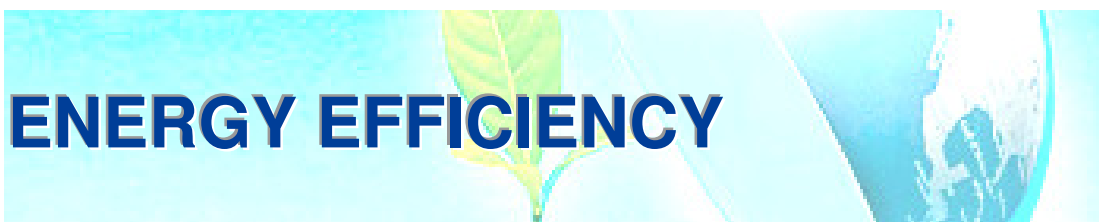
On 22 April 2015, representatives of the companies participating in ICGB AD, the company which is in charge of the construction and operation of the new pipeline designed to connect the national gas transmission systems of Greece and Bulgaria, met in Sophia, in the presence of the Greek Minister of Reconstruction of Production,

Environment and Energy and the Bulgarian Minister of Energy, in order to agree on the further steps required for the swift realisation of the project. ICGB's prime shareholders are, on the one hand, POSEIDON, which consists of the Hellenic Public Gas Corporation DEPA S.A. and the Italian company EDISON, and, on the other hand, the Bulgarian Energy Holding (BEH). During the meeting the revised project development plan was finalised, as was the roadmap for the launch of operation of the pipeline which is scheduled for 2018. The parties approved the budget for the funding of all the actions needed until the construction of the pipeline begins. A respective agreement was signed by the representatives of the three companies. The Greek – Bulgarian pipeline will be 180 km in total length, of which 30 km will be constructed on Greek territory and 150 km will be constructed on Bulgarian territory. The capacity of the pipeline will be 3 billion cubic meters of gas annually, with the possibility of upgrading it in the future up to 5 billion cubic meters.

Montenegro: Public Consultation for Amendments to Legal Acts Regulating the Electricity Network and Market Operation

by Vuk Stankovic (Belgrade)

On 30 April 2015, the Energy Regulatory Agency of the Republic of Montenegro (RAE) launched a public consultation for the introduction of amendments to the following legal acts: (i) Methodology for setting the regulated revenue and the tariffs for the use of the electricity transmission system; (ii) Methodology for setting the regulated revenue and the tariffs for the use of the electricity distribution system; (iii) Methodology for setting the regulated revenue for the Public Supplier and the regulated tariffs for electricity supply; (iv) Rules on confirmation of the remuneration for the operations of the electricity market operator; and (v) Rules on amending the electricity tariffs. The proposed amendments provide a more accurate and extensive definition of the regulatory period and regulatory year, a new formula for calculation of the regulated operating costs and reinforce the role of the RAE to propose amendments to legal acts applicable to network operation. The public consultation was closed on 18 May 2015, and adoption of the aforementioned amendments is foreseen in the near future.



Bulgaria: New Energy Efficiency Act Enters into Force

by Svetla Stoykova (Sofia)

A new Energy Efficiency Act entered into force on 15 May 2015, the day of its promulgation in the State Gazette, issue no. 35 of 2015. The Act transposes Directive 2012 /27 /EU of the European Parliament and of the Council on energy efficiency, containing measures to improve Member States' efforts for more efficient use of energy at every stage of the energy chain - from the transformation, through distribution to final consumption energy. On 22 July 2014, the European Commission had initiated infringement proceedings under Art. 258 of the Treaty on the Functioning of the European Union against Bulgaria for failure to fulfill its obligations to transpose the Directive on time and on 27 November 2014 Bulgaria had received a reasoned opinion on the infringement.

The new Energy Efficiency Act provides measures aimed at increasing energy efficiency in final energy consumption by allocating minimum energy savings obligations between the end suppliers, suppliers of last resort and traders of electricity, heat, natural gas, fuel oil and solid fuels, which sell a certain amount yearly to end customers. According to the law, the investors and owners of new buildings are required to obtain energy performance certificates for the buildings before proceeding to any transaction in this regard. All existing public buildings having total constructed area of equal to or above 250 square meters shall be subject to mandatory inspection and certification for energy efficiency. Energy performance certificates shall be required for sale or rental of new buildings and public buildings with an area of equal to or above 250 square meters.

Regulations setting the minimum energy performance requirements, the scheme for obligations for energy savings and allocation of minimum obligations between the end suppliers, suppliers of last resort and traders, and other provisions for implementation of the new Energy Efficiency Act shall be further adopted.

Ukraine: Reform of the Rules on Investments in Energy Efficiency of Large Scale State and Municipal Buildings

by Tetyana Vyshnevskya (Kiev)

On 9 April 2015, the Ukrainian Parliament adopted Law no. 327-VIII on introduction of new investment opportunities, assuring rights and lawful interests of business entities to carry out large-scale energy modernization. The Law regulates energy performance contracts (EPC) on improving energy efficiency of state and municipal (communal) buildings. In particular, it regulates the main provisions of EPC between budget-funded institutions (customers) and Energy Savings Companies (ESCOs); introduces a mechanism for calculation of the cost of services under an EPC contract; establishes guarantees for investors as to the remuneration for the achieved savings and a transparent selection procedure of the winning bidder. The main criterion for the evaluation of ESCOs' proposals shall be the performance index of the EPC contract (the net present value [NPV]), which shall constitute the total of discounted differences between the annual decrease of customer's expenses for energy resources and housing and utilities services, and annual payments to the ESCO for the 20 year period starting from the public procurement announcement date. According to the Law, public procurement for EPC shall be carried out in accordance with the Law on conducting public procurement; a standard EPC contract shall be approved by the Government; annual payments to ESCO (in terms of money only) shall not be less than 80% but shall not exceed 90% of the annual decrease of customer's expenses; the specific weight of the NPV shall not be less than 75%; the duration of the EPC contract shall not exceed 10 years; and the essential provisions of an EPC contract shall be submitted by the customers to the competent authority for approval (Ministry of Finance of Ukraine as regards state property and local councils when it comes to communal property). The Law came into force on 9 May 2015. Due to adoption of the Law, certain amendments shall be introduced in the Laws on energy saving and on conducting public procurement. Relevant amendments have already been introduced into the Budget Code by Law No. 328-VIII, adopted on 9 April 2015, in effect since 9 May 2015.

EU/ Poland: Commission Requires Poland to Fully Transpose the Energy Efficiency in Buildings Directive into the National Law

by Izabela Jurek (Warsaw)

At the end of April, the European Commission, assuming a monthly package of decisions on infringements, has issued a reasoned opinion referring to the proper implementation of the Directive on the energy performance of buildings (Directive 2010/31/EU) in Poland. According to the Directive, European Union countries must introduce and apply minimum energy performance requirements of new and existing buildings, as well as provide certification of the energy performance of buildings and establish a requirement for regular inspections of heating and air-conditioning systems. The requirements are also targeted that all new buildings constructed from 2021 have almost zero energy consumption.

In July 2014 the Commission has decided to refer the case against Poland to the Court of Justice of the EU with regard to the implementation of the Directive. In response Poland adopted in a short time measures to transpose the Directive by passing the Act on energy efficiency in buildings in August 2014. However, according to further analysis of the Commission, the provisions of the Directive have still not been fully transposed. The Polish authorities have two months to reply. The Commission has threatened that if Poland fails to fulfil its obligations, it can refer the matter to the Court of Justice and request financial penalty.

Romania: European Commission Requests Romania to Fully Transpose the EU Energy Efficiency Directive into National Legislation

by Corina Badiceanu (Bucharest)

On 30 April 2015, the European Commission requested several countries (Romania being one of them) to ensure the full transposition of the Energy Efficiency Directive (Directive no. 2012/27/EU) into national legislation, by sending reasoned opinions. The Directive, which had to be transposed by the Member States into national law by 5 June 2014, provides the Member States' obligation to achieve energy savings over the period 1 January 2014 – 31 December 2020 by using Energy Efficiency Obligations Schemes and/or other targeted policy measures to drive energy efficiency improvements in households, industry and transport sectors. Should the countries not comply with the European Commission's request within two months, the Commission may decide to refer them to the Court of Justice of the European Union and ask for financial penalties.

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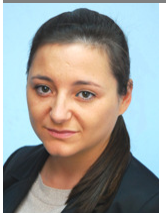
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