ROKAS

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EU and EnC

RES

FIT FOR 55: COMMISSION PROPOSES TRANSFORMATION OF EU ECONOMY AND SOCIETY TO MEET CLIMATE AMBITIONS

by Kosmas Karanikolas (Athens)

On 14 July 2021, the European Commission presented a series of extensive, comprehensive and interconnected legislative measures (Regulations and Directives) aimed at materializing EU's commitment, undertaken through adoption of the 'European Green Deal', to drastically reduce greenhouse gas emissions (- 55% until 2030 in comparison to 1990), this commitment constituting an *interim target* towards the effectuation of the ambition of rendering Europe the first climate-neutral continent by 2050. The suggested measures are concentrated in four fields: emissions' confinement, propulsion of use of renewable energy and assurance of energy efficiency, alignment of taxation with the intended climate-neutral policies as well as adequate funding of the transition towards a climate-resilient economy.

As far as emissions' reduction is concerned, Commission proposes the curtailment of the overall emission cap provided for by the Emissions Trading System (ETS) coupled with the increment of the desirable annual rate of emissions' containment. Nevertheless, insofar the Commission is aware of the different starting points and capacities of each Member State, the proposed Effort Sharing Regulation (no. 2018/842), is aimed at aligning emissions' reduction targets with each country's GDP per capita. It is reminded that the ETS sets a progressively decreasing cap on the total amount of greenhouse gases that can be emitted by 10,000 installations included in the system (i.e., undertakings engaging in the power sector, the manufacturing industry and airlines) compelling the latter to trade 'emissions allowances' so that each of them surrenders enough allowances to fully cover its emissions, on pain of heavy fines. Furthermore, Commission suggests the expansion of ETS' scope, through abolishment of the standing free emission allowances for aviation, the inclusion of shipping emissions in the system as well as the establishment of a discrete ETS for road transport and buildings. The anticipated adoption of Regulation 2018/841 on Land Use, Forestry and Agriculture will further contribute to emissions' confinement as it is encompasses actions intended to carbon removal by natural sinks, equivalent to 310 mi tons of CO_2 emissions, so that the EU will achieve climate neutrality in the land use, forestry and agriculture sectors, by 2035. Besides, average emissions of new cars should be 55% lower than nowadays by 2030 and all new cars registered must be 'zero-emission' as of 2035. In this regard, the revised Alternative Fuels Infrastructure Regulation necessitates the installation of electric charging and hydrogen fueling points every 60 and 150 km, respectively, on major highways. Finally, Member States will be requested to dispense the total income from emissions' trading on climate and energy-related projects, while a substantial part of the revenues from the scheduled ETS for road transport and buildings will be allocated to the funding of a fair transition towards a climate-neutral economy.

Given the immense contribution of energy production in emissions, the amended Renewable Energy Directive furnishes that, until the end of the current decade, 40% of EU's total energy production must be derived from renewable sources. In addition, Member States are encouraged to invest in bioenergy in a sustainable manner observing the cascade principle for woody biomass, according to which wood is used in the following order of priorities; wood-based products, re-use, recycling, bioenergy and disposal. As coverage of EU's total energy needs from renewables cannot be achieved in the short-term, the Union purposes to mitigate its overall energy consumption, through application of the Energy Efficiency Directive (recast) which inserts more ambitious targets on energy use's decrement, by means of, inter alia, public buildings' renovations to render them less energy – intensive. Moreover, albeit the Alternative Fuels Infrastructure Regulation already ensures aircrafts' and ships' access to clean electricity supply in major ports and airports, the upcoming ReFuelEU Aviation and FuelEU Maritime Initiatives will further oblige fuel suppliers to blend increasing levels of sustainable aviation combustibles in jet fuel and set a cap on the greenhouse gas substances contained in ships' combustibles, respectively.

With a view to the economic aspect, the EU intends to restructure Directive 2003/96 on the taxation of energy products and electricity (Energy Taxation Directive /ETD) to align the taxation of energy products with the adopted energy and climate policies, with emphasis put on the abolition of obsolete exemptions and reduced rates that still encourage fossil fuels' use. In order to deter the relocation of carbon – intensive production outside the EU (carbon leakage), the Union programs to put a price on imports of such goods through the amended Carbon Border Adjustment Mechanism, ensuring that the emissions' confinement within the Union stimulates an equivalent decline globally. Finally, acknowledging that climate-resilient policies entail additional pressure for vulnerable households, micro-enterprises and transport users, the Commission has designed a new Social Climate Fund, equipped with resources amounting to €72.2 billion for the period 2025-2032 and further anticipated to mobilize €144.4 billion that will be channeled into the realization of measures, such as investments in energy efficiency, new heating and cooling systems and cleaner mobility that will render the transition towards a climate neutral economy socially fair.

EU COMMISSION PROPOSAL ON THE REVISION OF THE RES DIRECTIVE

Maria Ioannou (Athens)

On 14 July 2021, the European Commission (the EC) published its proposal on the revision of the recast Directive 2018/2001/EU (the Renewable Energy Directive II), within the context of the so-called 'Fit-for-55' package.

Indeed, this proposal constitutes part of the newly announced proposed legislative package underpinning the European Green Deal and aims to push the target for the participation of renewables in the overall EU energy mix by at least 40% by 2030 (instead of only 32% that the Renewable Energy Directive II envisages), in alignment with the more long-term EU neutrality target for 2050. In light of this, the proposed revision of the Renewable Energy Directive II aims to increase the renewables integration into sectors such as buildings (which accounts for 40% of energy consumption in the EU and for 36% of energy-related emissions), transport and industry and to further simplify and facilitate relevant licensing procedures for the respective stakeholders, with the issuance of relevant guidelines to Member States to possible follow soon.

Within this context, legal definitions contained in the Renewable Energy Directive II are proposed to be modified (e.g. the definition of renewable fuels of non-biological origin) or adopted anew (e.g. the definitions of market participant, electricity market, efficient district heating and cooling); the Directive's provisions on the obligation for minimization of risks of unnecessary market distortions resulting from support schemes to be amended; the support scheme for biomass-based electricity to be phased out (with certain exceptions) by 2026. Also, the method for calculating the share of RES-based electricity is proposed to be amended to ensure that energy from renewable fuels of non-biological origin is accounted in its sector of consumption and that the renewable electricity used in the production of renewable fuels of non-biological origin is excluded. Moreover, the EC proposes provisions which will oblige that Member States to jointly plan and agree to cooperate on the amount of offshore renewables to be deployed within each sea basin by 2030, 2040 and 2050.

Amendments to the Renewable Energy Directive II are also proposed, to encourage the uptake of power purchase agreements and also incentivize consumers of industrial products, for which a common labelling methodology is envisaged which shall indicate the percentage of renewable energy used in manufacture.

Sustainability and biodiversity issues are also considered, whereby the existing land criteria (e.g. no-go areas) for agricultural biomass are also extended to biomass sourced from primary and highly diverse forests. It is proposed that these amended provisions apply also to existing small biomass facilities (i.e. below the thermal capacity of 5 MW).

These measures are also accompanied with a proposed increased sharing of information on the participation of RES in the energy mix on behalf of the system operators. Certain obligations of disclosure of information are also proposed to be imposed upon battery manufacturers as regards certain technical and operational features of the batteries.

Lastly, the EC proposes that Member States be obliged to take measures to prohibit discrimination, due to market regulation, against the participation of small or mobile storage systems in the flexibility, balancing and storage services market

The Council and the European Parliament are to further deliberate on the EC' proposals while adoption is expected by end of 2022.

COMMISSION'S PROPOSAL FOR RECASTING THE ENERGY EFFICIENCY DIRECTIVE

by Alexandra Daniil, (Athens)

On 14 July 2021 European Commission introduced a proposal for recasting the EU Directive on Energy Efficiency (EED). The main goal of this proposal is to contribute to the perpetual effort of the EU to promote energy efficiency as well as to reduce energy consumption and to strengthen energy savings obligations of the Member States against the fight of climate change. The new proposal emphasizes on energy- intensive sectors such as industry and energy services, heating and cooling, public sector, transport, and building, giving the potential for investments increase and economic recovery following the Covid- 19 pandemic. The energy efficiency target for reducing energy consumption in 2030 and annual savings requirements have been advanced. The sectors of transport and buildings constitute a challenge because of the low energy efficiency, which is noted, while new measures are proposed for heating and cooling aiming to cut emissions in buildings. Large energy consumption industries will need to have an energy management and a four-year audit in future for cost- saving energy efficiency to be secured. Also new annual energy consumptions reduction obligations are introduced in the public sector activities. The EED proposal sets a new framework requiring member states to empower and protect vulnerable consumers and eliminate energy poverty, while a legal basis for the application of the ''energy efficiency first'' principle is introduced. The new proposal is about to pass to the Council and the European Parliament.

Case-law

CJEU JUDGEMENT ON THE MEANING OF 'INVESTMENT' IN THE ENERGY CHARTER TREATY

by Ellie Fenekou (Athens)

On 2 September 2021, the Court of Justice of the European Union (CJEU) gave a preliminary ruling under Article 267 TFEU, on a request made by the cour d'appel de Paris (France) regarding the meaning of 'investment' in the Energy Charter Treaty (ECT), in the context of an action for annulment of an arbitral award made in Paris on 25 October 2013. The Judgement of the CJEU of 2 September 2021, Republic of Moldova v Komstroy LLC, successor in law to the company Energoalians, C-741/19,

ECLI:EU:C:2021:655 has been published on the Curia website under number C-741/19. The Opinion of the Advocate General has also been published and is identified under ECLI:EU:C:2021:164.

The parties in the dispute addressed by the arbitral tribunal were Moldovan public undertaking Moldtranselectro and Ukrainian distributor Energoalians, to which the British Virgin Islands company Derimen had assigned a claim against Moldtranselectro, which arose from a contract for the supply of electricity by Derimen to Moldtranselectro. Inter alia, the cour d'appel de Paris referred a question regarding whether the aforementioned claim constituted an investment under Article 1(6) ECT. The Court reasoned that "a mere supply contract is a commercial transaction which cannot, in itself, constitute an 'investment' within the meaning of Article 1(6) ECT, irrespective of whether an economic contribution is necessary in order for a given transaction to constitute an investment", also mentioning that the arbitration clause of Article 26 ECT applies to disputes regarding Part III of the ECT regarding investments, and not Part II of the ECT regarding trade.

The CJEU ruled that "Article 1(6) and Article 26(1) of the Energy Charter Treaty […] must be interpreted as meaning that the acquisition, by an undertaking of a Contracting Party to that treaty, of a claim arising from a contract for the supply of electricity, which is not connected with an investment, held by an undertaking of a third State against a public undertaking of another Contracting Party to that treaty, does not constitute an 'investment' within the meaning of those provisions".

CASE C-718/18 EFFECTIVE UNBUNDLING THROUGH THE INDEPENDENCE OF NRAS IN GERMANY

by Paraskevi Chrysochoidi (Athens)

On 2 September 2021, the European Court of Justice issued a judgment in the Case C-718/18, according to which the Federal Republic of Germany, which was supported by the Kingdom of Sweden, failed to transpose correctly and implement the Directives of the European Union in the field of energy and natural gas, namely Directive 2009/72/EC and Directive 2009/73/EC. More specifically, the Court held that German energy law (Energiewirtschaftsgesetz) does not recognize complete independence of the aforementioned two markets both from the government and the national legislator, as the EU law requires, allowing political influence in them and on that issue European Commission sets against this Member State, and the former's action is based on four complaints.

Firstly, the definition of a "Vertically Integrated Undertaking" in paragraph 3(38) of the German Energy Industry Act is worded so as the activities of those undertakings to be limited in the territory of the EU and only within it, a territorial restriction which is not provided by EU Directives. The court found (para. 37) that such a restriction may cause conflicts of interest between a transmission system operator (TSO) located in the European Union and electricity or natural gas producers or suppliers carrying on activities in those fields outside the European Union, creating an obvious risk of discriminatory treatment if natural gas or electricity produced outside the European Union by an undertaking is transported within the European Union through a transmission system that is owned by the same undertaking.

The second complaint concerns the compatibility between Article 19(3) and (8) of Directives 2009/72 and 2009/73 and the articles 10c para 2 and para 6 of EnWG, where European provisions about unbundling are nearly evaded. EU law requires a period of three years in which employees, previously involved in an activity of the Vertically Integrated Undertaking in the electricity or gas sector, might participate in transmission operation activities. German law, however, allows a shortening of the three years, for those employees that have not been involved in energy-related activities of the VIU. The Court argued that Commission's provisions do not support the conclusion that the concept of a 'VIU' should exclude those employees and it is necessary to include them to attain effective unbundling.

The third complaint relates to the obligation to dispose of any shares held in the capital of the VIU that were acquired up to 3March 2012 (article 19(5) of Directives 2009/72 and 2009/73). It argues that paragraph 10(c) of the EnWG, applies only to shares held by the management of the independent transmission system operator and not those held by its employees. The Court stated that, even though the employees may not be able to take managerial decisions, they are still in a position to influence the activities of their employer, justifying the requirement to dispose of any shares held in the capital of the VIU up to 3 March 2012 (para. 64, 66, 69)

The fourth and final complaint concerns the exclusive powers of the National Regulatory Authority as the first sentence of paragraph 24 of the EnWG confers on the Federal Government powers and detailed provisions to fix transmission and distribution tariffs, and to determine the conditions for balancing services, even though, according to Commission's Directives, such powers lie exclusively with National Regulatory Authorities ('NRAs') (Articles 35(4)(a) and (5)(a) of Directives 2009/72 and 2009/73). The Court stated that NRAs shall exercise their powers independently of any public entity or political body, enabling them to coordinate their actions on a long-term basis (para. 86-88).

This case concerned cross-border exchanges and is part of a bigger effort by the European Commission to ensure independence and effectiveness of NRAs throughout Europe in the field of Energy and Natural Gas.

CASE C-848/19 EXEMPTION FROM THE REQUIREMENTS ON THIRD PARTY ACCESS

by Andriani Kantilieraki, (Athens)

On 15 July 2021 the European Court of Justice issued its decision on Case C-848/19, dismissing the appeal filed by the Federal Republic of Germany against the European Commission, the Republic of Poland, the Republic of Latvia and the Republic of Lithuania.

By the aforementioned appeal, the Republic of Germany sought to overrule the judgment of the General Court of the EU of 10 September 2019 (case of Poland v Commission), by which the latter annulled Commission Decision C (2016) 6950 final of 28 October 2016, on review of the exemption of the Baltic Sea Pipeline Connector ('the OPAL pipeline') from the requirements on third-party access and tariff regulation granted under Directive 2003/55/EC concerning common rules for the internal market in natural gas. The Court took under consideration provisions of the German legislation and the European acquis as well as key concepts such as the requirements on third party access to the transmission and distribution system (based on published tariffs without discrimination between system users) and the circumstances under which major gas infrastructures (i.e. interconnectors, LNG and storage facilities) may be exempted for a defined period of time from the aforementioned requirements.

The dispute in hand, referred to two decisions issued by the German Federal Network Agency by which an exclusion was granted for 22 years concerning the capacities for cross-border transmission of the planned OPAL pipeline from the application of the rules on third-party access laid down in Article 18 of Directive 2003/55, reproduced in Article 32 of Directive 2009/73. The Federal Network Agency later notified the Commission of its intention to vary specific provisions of the exemption at the request of OGT, OAO Gazprom and Gazprom Export OOO. The variation proposed by the Federal Network Agency consisted, in essence, in replacing the restriction imposed by Decision C (2009) 4694 on the capacity that could be reserved by dominant undertakings with the obligation, for OGT, to offer, by auction, at least 50% of its operating capacity at the exit point of Brandov (Czech Republic). The Commission later approved the amendments to the exemption regime proposed by the Federal Network Agency, subject to certain conditions and the Federal Network Agency adopted the decision. However, concerns were raised by the Republic of Poland, which brought an action for the annulment of the aforementioned decision.

In support of its action, the Republic of Poland relied on six pleas in law, alleging, first, infringement of Article 36(1)(a) of Directive 2009/73, read in conjunction with Article 194(1)(b) TFEU and the principle of solidarity; second, the lack of competence of the Commission and infringement of Article 36(1) of that directive; third, infringement of Article 36(1)(b) of that directive; fourth, infringement of Article 36(1)(a) and (e) of that directive; fifth, infringement of international conventions to which the European Union is a party; and, sixth, breach of the principle of legal certainty. The General Court granted the Federal Republic of Germany leave to intervene in support of the form of order sought by the Commission, and granted the Republic of Latvia and the Republic of Lithuania leave to intervene in support of the form of order sought by the Republic of Poland. By the judgment under appeal, the General Court annulled the decision at issue on the basis of the first plea in law, without ruling on the other pleas put forward, and ordered the Commission to bear its own costs and to pay those incurred by the Republic of Poland.

Pursuant to the appeal filed by the Republic of Germany the Court dismissed all its grounds and held, among others, that:

a) the principle of solidarity underpins the entire legal system of the European Union and is closely linked to the principle of sincere cooperation and, like general principles of EU law, constitutes a criterion for assessing the legality of measures adopted by the EU institutions, thus the principle entails rights and obligations both for the European Union and for the Member States and requires that the Commission verify whether there is a danger for gas supply on the markets of the Member States;
b) the principle of energy solidarity entails a general obligation, for the European Union and the Member States, in the exercise of their respective competences in respect of EU energy policy, to take into account the interests of all stakeholders liable to be affected, by avoiding the adoption of measures that might affect their interests, as regards security of supply, its economic and political viability and the diversification of sources of supply, and to do so in order to take account of their interdependence and de facto solidarity.

Environment

COMMISSION'S CALL FOR CLEAN ENERGY INFRASTRUCTURE PROJECTS

by Dimitrios Mitsakos (Athens)

On 7 September 2021, the European Commission has launched a new call for proposals for key cross-border EU energy infrastructure projects pursuant to the Trans-European Networks for Energy (TEN-E) policy that is focused on linking the energy infrastructure of EU countries. Every two (2) years since 2013, the European Commission draw up a new list of Projects of Common Interest (PCIs) which is submitted to the European Parliament and to the Council for approval. Currently, these projects, included on the 4th Union list of PCIs, are being co-financed from the EU budget in the form of grants worth €785 million. The total budget of funding for key European energy infrastructure projects is up to €2.4 billion for the period 2021-2023.

In addition, the main purpose of PCIs is to help the EU achieve its energy policy and climate objectives: affordable, secure, and sustainable energy for all citizens, and the long-term decarbonization of the economy in accordance with the Paris Agreement. Since 2013, these projects have helped countries in the EU interconnect their markets, which in turn has increased trade and competitiveness and helped growing shares of renewable energies reach households and businesses across the EU. This is the first

call for PCIs under the new Connecting Europe Facility (CEF) rules and will be open until 19 October 2021. The award decision is expected to be adopted in early 2022, after the assessment of the applications.

EnC: DISPUTE SETTLEMENT PROCEDURES AGAINST SERBIA, MOLDOVA AND NORTH MACEDONIA REGARDING THE EIA DIRECTIVE

Maria Ioannou (Athens)

On 23 June 2021, the Energy Community Secretariat filed Reasoned Requests before the Ministerial Council against Serbia (case No. ECS-23/21), Moldova (case No. ECS-24/21) and North Macedonia (case No. ECS-22/21) on account of their failure to timely transpose into national law the EU Directive 2014/52 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (the Environmental Impact Assessment (EIA) Directive).

The EIA Directive applies to public and private projects likely to have significant effects on the environment, envisaging the ex-ante assessment of their likely direct and indirect effects on the environment and public participation during relevant decision-making.

The EIA Directive was incorporated in the Energy Community acquis by virtue of Decision 2016/12/MC-EnC of its Ministerial Council, which set out the obligation of the Contracting Parties to transpose it, with the exception of the provisions referring to Directives not covered by Article 16 of the Energy Community Treaty, by 1 January 2019 and to inform the Secretariat thereon. The aforementioned Decision 2016/12/MC-EnC further envisages that the Contracting Parties must notify the Secretariat as well as the public, in case a project of Energy Community interest is to materialize within their territory. The notification shall concern the anticipated environmental impacts of the project and the Contracting Party's relevant decision and the Secretariat shall ensure that the project's environmental impact assessment fulfils the requirements of the EIA Directive.

The Secretariat asserts that these Contracting Parties failed to prove that they had duly implemented the laws and administrative provisions necessary for compliance with Decision 2016/12/MC-EnC as well as Articles 6 and 89 of the Energy Community Treaty. Subsequently, the Secretariat reports that Moldova and Serbia have responded by providing reasons for the delay and (the latter) by informing on its intention to have achieved compliance by end of 2021 and also on its effort to harmonies existing and new primary and secondary legislation (e.g. the law on integrated prevention and control of environmental pollution or the decree listing the projects that shall require a mandatory EIA), inviting also the Energy Community to participate in the public consultation procedures that will follow.

ALBANIA

Market

APPROVAL OF THE STRATEGIC OBJECTIVES OF ERE FOR THE PERIOD 2021 – 2023

by Blerta Topore (Tirana)

On 12 March 2021 the Albanian energy regulatory agency (ERE) issued decision **no. 74** approving the Strategic objectives of ERE for the period 2021 – 2023, through which the ERE addresses the strategic objectives and key aspects of action for the period 2021 - 2023 within the dynamics of sector development in the national context, as well as that of regional integration. The main objectives are: consumer protection through awareness; giving voice to the customer; customer awareness and transparency in service evaluation; strengthen support mechanisms for customers in need; development of increasingly efficient and integrated electricity and natural gas markets; Regional integration; and strengthening access to information for the proper functioning of market processes.

The approval of these objectives should affect the transparency and integrity of the administrative activity, the promotion and reduction of regulatory barriers and the shortening of regulatory procedures, as well as promote cooperation with other institutions on regulatory issues, for a sustainable development. A large part of the 2021-2023 work program is dedicated to consumer protection and empowerment, and to retail markets and promoting retail market competition. The ERE intends to promote, and make every effort to involve stakeholders in decision-making, to convey its belief in values such as integrity, simplicity, inclusiveness, and above all mutual trust and respect.

Electricity

ALBANIAN ELECTRICITY BALANCING MARKET RULES

by Blerta Topore, (Tirana)

On 31 March 2021 the Albanian Energy Regulator (ERE) approved the decision no. 86 on the proposal of the Transmission System Operator Company, *On the Albanian Market Rules for the Balancing of Electricity from 1 April 2021.* The process of establishing in detail the balancing market started in 2018, upon entry into force of the Transitional Electricity Balancing Mechanism Rules (ERE Decision no. 193 of 24 November 2017). In 2020, the ERE took another step towards the establishment of the balancing market by

approving the (non-transitional) Albanian Electricity Balancing Market Rules (Decision no. 106 of 2 July 2020). Such rules circumvented the provisional aspects of the Transitional Rules and provided in more detail the roles of the parties involved as well as the terms and conditions under which the balancing market and particularly the imbalance settlement processes can operate. ERE set out a dry run trial period (without financial effects for the parties) of such Rules (Decision no. 275 of 28 December 2020). It would initially last until 31 December 2020; subsequently extended until 31 March 2021.

The Albanian Balancing Market Rules are based on the principle of equal treatment and non-discrimination of all market participants as well as transparency in communication and fair conduct between the TSO and market participants (including CAP and PRB). In case of any discrepancy between the provisions related to balancing, established according to these Albanian Market Rules of Balancing and Market Rules, these Rules will prevail. According to the ERE, market participants can now provide market-based balancing services and are responsible for balancing them, creating joint balancing groups. Meanwhile, participants can adjust the liability for balancing, through a contract with the Transmission System Operator by obtaining the status of responsible party for balancing or by signing a contract for transferring the responsibility of balancing to another party responsible for balancing, becoming member of a balancing group, in accordance with market rules.

RES

CONSTRUCTION OF THE PHOTOVOLTAIC ELECTRICITY GENERATING PLANT AND ANCILLARY WORKS "BLUE 2"

by Blerta Topore (Tirana)

On 25 March 2021 the Council of Ministers of Albania decided to approve the construction of the Photovoltaic Electricity Generating Plant and ancillary works "BLUE 2", which does not benefit from the support measures in the area of Sheq-Marina, Fier Municipality, Fier Region from the temporary union of companies "BLESSED INVESTMENT" ltd and CONSTRUCTION" ltd. Pursuant to Article 100 of the Constitution and point 1, article 49, of Law no. 43/2015, "On the electricity sector", as amended, on the proposal of the Minister of Infrastructure and Energy, the Council of Ministers approved the construction of the above plant by the consortium of companies "Blessed Investment", sh. pk, and "Matrix Konstruksion", sh.pk. The plant will have the installed capacity: 50 MW and should be constructed within 50 (fifty) months from obtaining of the construction permit.

The consortium undertakes the following obligations towards the Government: to pay as royalty to the Ministry responsible for energy, the amount of electricity, at the rate of 2 (two)% of the annual amount of electricity production or its conversion into monetary value. In case of conversion into monetary value, the consortium should transfer them entirely to the state budget; to fulfill the request, as the case may be, that a part of the production of the energy generating source be sold to the public supplier, according to the legislation in force.

PURCHASE PRICE OF ELECTRICITY PRODUCED FROM SMALL RENEWABLE WIND SOURCES FOR 2020

by Blerta Topore (Tirana)

On 28 December 2020, the Albanian Energy Regulator (ERE) issued decision no. 271, initiating the procedure *"On determining the purchase price of electricity produced from small renewable sources from the sun, wind and biodegradable part of solid waste used by industrial, urban and rural waste for 2020".* The requests for determining the purchase price of electricity produced from small renewable wind sources with an installed capacity of up to 3 MW, by the companies "ANEMOI ENERGY" sh.pk, and GREEN are submitted to the ERE TECH" sh.pk, which are the only entities that have received final approval from the Ministry of Infrastructure and Energy (MEI) for 2020.

Since, in Albania there is still no data on the real cost of investment related to wind energy production technology (wind), the MEI has requested the companies "ANEMOI ENERGY" sh.p.k., and "GREEN TECH" sh.p.k., to prepare and submit a Feasibility Study for the construction of wind power plants with an installed capacity of 3 MW; as well as to provide the business plans of the companies which reflect the costs for the construction of each plant, these data necessary for the analysis of the costs of these plants for a fairer decision-making by the ERE, at the end of the process started with board decision no. 271, dated 28.12.2020. The above approval should give the investors the necessary security regarding financing and implementation of these projects on time.

Based on the provided documents as well as the Methodology for determining the purchase price of electricity produced from sources small renewable from the sun and wind approved by the Decision of the Council of Ministers no. 369, dated 26.4.2017, it results that the average price for wind power plants up to 3 MW for 2020 to be 75.64 Euro / MWh. For all of the above, the ERE board decided to approve the average purchase price of electricity produced by wind farms with an installed capacity of up to 3 MW of 75.64 Euro / MWh, for 2020.

FLOATING PHOTOVOLTAIC PLANT OF BANJA

by Blerta Torope, (Tirana)

In the framework of the Devoll Hydropower Project in Albania, Norwegian Company Statkraft AS, is developing an innovative project with floating solar panels in the Banja Reservoir. The pilot project of the Banja Floating Photovoltaic Plant started implementation during 2020 and one unit of the plant was completed in 2021 and was put in operation. The Floating Photovoltaic Plant of Banja

consists of four floating units each of 0.5 MWp. The floating units are anchored in the Banja reservoir, near the Banja hydropower dam. Each unit with a diameter of 70 meters consists of a polyethylene ring pipe and an impermeable membrane, in which the photovoltaic panels are mounted. The project is located in the Banja reservoir, where Statkraft operates the Banja Hydropower Plant with an installed capacity of 72 MW. The Banja Floating Photovoltaic Plant is an innovative research and development project with a planned installed capacity of 2 MWp.

After the successful completion of the implementation phase and the connection to the national electricity grid, the first unit of the Banja Floating Photovoltaic Plant has successfully started commercial operations. The plant is producing renewable energy and it is being connected to the Albanian energy network. The first unit of this plant, which consists of 1536 solar panels, has an installed capacity of 0.5 MWp and covers an area of approximately 4,000 m2. In addition, 160 identical panels have been placed on the ground to compare and document the cooling effect on the floating panels. The project plans to continue with the second phase of implementation during the second half of 2021, when three more floating units will be installed, with an additional installed capacity of 1.5 MWp.

Oil & Gas

APPROVAL OF THE MARKET TESTING GUIDE FOR THE TRANS ADRIATIC PIPELINE

by Blerta Torope, (Tirana)

On 29 June 2021, the Albanian Energy Regulator (ERE) approved considered the report prepared by the Director of Natural Gas and approved the Market Testing Guide for the Trans Adriatic Pipeline, the document submitted proposed by TAP AG on 11 June 2021. The application for the approval was submitted on 11 June 2021, in accordance with Paragraph 4.1.7 of the Joint Final Opinion regulating that TAP AG must regularly conduct a Market Test at least every two years in order to provide all interested parties with additional capacity until to achieve the maximum possibility of pipeline expansion. Thus, ERE has concluded that the 2021 market test procedure proposed by TAP AG is in line with the principles set out in the Final Joint Opinion and the European Directives and Regulations for the allocation of existing and incremental capacity.

AGREEMENT BETWEEN MINISTRY OF INFRASTRUCTURE AND ENERGY, ALBGAZ AND TAP

by Blerta Torope, (Tirana)

On 7 July 2021 the Ministry of Infrastructure and Energy, Albgaz Sh.a. and the Trans Adriatic Pipeline (TAP AG), signed a Cooperation and Delivery Agreement for the Southern Section Facility in Fier. TAP will design, procure and build the gas exit point in Fier. According to the agreement, after the construction of the gas exit point in Fier is completed, the gas exit point will be handed over to the Albanian state and will be in its full ownership, management and operation.

The construction of the new structure is a historic moment for the gasification of Albania, as it will enable an interconnection point between the TAP transport system and the future gas infrastructure in Albania. The new gas outlet in Fier will provide a strategic entry point, for Albania and the Western Balkans, into the gas reserves in the Caspian region. It will be built outside the TAP compressor station in Fier, will have expandable capacity and the possibility of gas flow in two directions. The gas outlet, to be built by TAP, will also include structures for pressure reduction and fiscal measurement of gas flow. The gas exit point in Fier strengthens the role of TAP in the Western Balkans area, not only as a reliable Transmission System Operator (TSO) but also as an active partner in Europe's energy transition.

BiH

Oil & Gas

EnC: REASONED REQUEST AGAINST BiH FOR LACK OF DSO UNBUNDLING

by Mirjana Mladenovic Paripovic, (Belgrade)

On 27 May 2021, the Energy Community Secretariat (ECS) submitted the Reasoned Request to the Ministerial Council for issuance of the decision based on Article 91 of the Energy Community Treaty in Case ECS-5/17. As we mentioned in our previous articles, Case ECS-5/17 is related to the Bosnia and Herzegovina failure to fulfill the following obligations under the Energy Community Treaty (i) to transpose the requirements of Article 26 paragraph 2 litera (d) of Electricity Directive 2009/72/EC requiring the establishment of a compliance officer and program in the Federation of Bosnia and Herzegovina in line with the deadline of 1 January 2015 foreseen by the acquis; (ii) to transpose Article 26 of Directive 2009/72/EC on legal and functional unbundling of electricity distribution system operators in Republika Srpska in line with the same deadline; and (iii) to adopt, within the prescribed time limit, the national measures to ensure legal and functional unbundling of Elektropriveda BiH d.d. Sarajevo, Elektropriveda HZHB d.d Mostar and Elektropriveda BiH d.d. Sarajevo in practice. Having in mind that Bosnia and Herzegovina did not correctly transposed and enforced the mentioned rules, it is in a state of non-compliance with Article 26 of Electricity Directive 2009/72/EC.

This case was submitted after carrying out a preliminary procedure. The Ministerial Council will make the decision on the alleged breaches at its next meeting.

BULGARIA

RES

RENEWABLE ENERGY PROJECTS IN BULGARIA

by Apostolos Christakoudis, (Sofia)

The Bulgarian Renewable Energy Act (RESA) defines renewable energy as energy from renewable non-fossil sources: wind, solar, aerothermal, geothermal, hydrothermal, ocean energy, hydropower, biomass, renewable gas, landfill gas and sewage treatment plant gas. This definition is based on the listed sources from which the energy is produced. There are certain rules / specifics around energy projects depending on national legislation which will be discussed below.

Prior to the construction of a renewable energy source (RES) project, the investor must obtain certain government authorizations that include: approval of the change of the designation of the land to be used for the project construction or for electricity purposes, approval of detailed development plans for the project and for the grid connection equipment, establishment of easement rights for the laying of the technical infrastructure, carrying out an environmental impact assessment of the investment intention for construction of power plants and an ecological assessment of the detailed development plans, approval of investment projects, obtaining confirmation from the grid operator on the terms and conditions of the project for grid connection and acquisition of a construction permit.

To operate a RES project and sell electricity in Bulgaria, the investor must hold a usage permit issued by the National Construction Control Department and, if the project has an installed capacity of more than 5MW, a license for producing electricity issued by the energy regulator - EWRC. Projects with a capacity of less 5MW are not subject to licensing. If the project is above 1MW, the investor must also have direct or indirect registration (via a licensed trader) on the energy exchange (IBEX) to sell the electricity. Projects with a capacity of less 1MW must have a sale-purchase contract with the National Electricity Company in the capacity of a public supplier. The producers must hold the respective guarantees of origin for the amount of electricity produced and sold.

A RES project that has been issued a production license can be decommissioned upon approval of the EWRC. In all cases, the EWRC considers if the decommissioning might lead to a breach of security of supply or endanger national security and public order. Decommissioning might occur upon expiry of the technologically determined term for safety exploitation, unused main equipment, loss of energy site and others. The Electricity System Operator (ESO), the authority responsible for the safety of the Bulgarian national grid, should be informed of all decommissioning activities and all subsequent actions for suspension of the activity of producing electricity should be coordinated with the ESO.

GREECE

Market

CONSULTATION ON PROPOSED ELECTRICITY MARKET REFORMS IN GREECE

By Alexandra Daniil (Athens)

On 2 August 2021, European Commission started a consultation on electricity market reforms in Greece. The objective of this consultation is to seek opinions from consumer and environmental organizations, trade unions, NGOs, public and private stakeholders, on the planned reform measures submitted by Greece to the Commission, under the Electricity Market Regulation 2019/943. Planned reform measures include IPTO's plans for new cross-border interconnections projects to Bulgaria, Italy, North Macedonia, Turkey and Albania as well as plans for new interconnections of Islands. Other measures concern the upgrade, reinforcement and expansion of the transmission system, the strengthening of retail market competition, as well the facilitation of bilateral contracting and access to RES. Furthermore, measures for the balancing of energy costs as well as for shortage pricing function were introduced. The consultation, which will help Commission's assessment of the submitted Greek plans, should address the input of the measures to the elimination of market failures and existing regulatory distortions. Contributions to this consultation on Greek plans should be submitted by 6 September 2021 in any official language of the European Union.

AMENDMENTS ON THE DAY-AHEAD & INTRA-DAY MARKETS TRADING RULEBOOK

by Konstantinos Ntallas (Athens)

On 18 August 2021, the Regulatory Authority for Energy (RAE) published the Decision No. 610/2021 in the Official Journal. In order to complete the regulatory framework that will govern the operation of the Complementary Regional Intra-Day Auctions (CRIDAs), a

proposal was submitted to RAE by Hellenic Energy Exchange (HEnEx S.A.) for the amendment of the Day Ahead Market (DAM) and the Intraday Market (IDM) Regulation. This proposal included amendments in particular regarding Climate Risk Informed Decision Analysis (CRIDAs) design principles, trading on behalf, termination of Participant's membership, submitting orders and transferring information, the second auction procedure, the emergency situation and verbal and syntactic improvements.

More specifically, the RAE accepted the proposed deletion of block orders in CRIDAs, given that in CRIDAs Participants will mainly submit orders to correct their positions and that existence of a sufficient number of priced hourly hybrid orders is a prerequisite for price formation.

Furthermore, with regard to the day-to-day market transition emergency procedure and in particular the inability to execute a CRIDA, the RAE considered it appropriate to maintain the allocation of the respective intraday zonal capacity. However, as for a period of a few months and since overnight transactions can only be made through CRIDAs, until the implementation of Cross-Border Intraday (XBID), in case a CRIDA cannot be executed, then the HEnEx S.A. will be able to run a Local Intra-Day Auction (LIDA) and Participants may submit buy / sell orders to correct their positions.

Other amendments such as those considering the termination of Participant's membership were not accepted.

Electricity

REGULATION OF CRETE'S ELECTRICITY MARKET BEFORE AND AFTER ITS CONNECTION TO THE INTERCONNECTED SYSTEM

by Sofia Getimi (Athens)

On 31 July 2021, the Law n. 4821/2021 was published in the Official Gazette (134/A/31.07.2021) which regulates, among others, the electricity market model to be adopted in Crete during the phases of Crete's interconnection with the National Transmission System. The interconnection of Crete is scheduled to be implemented by Electricity Transmission System Operator (IPTO) in two Phases, the first of which concerns the interconnection of Crete with Peloponnese and the second the interconnection of Crete with Attica. The Law 4821/2021, which amends the law 4001/2011, introduces several transitional provisions for the regulation of the electricity market of Crete during the first and the second phase of the interconnection period. More specifically, the law stipulates among others, that during the first phase the IPTO will calculate the absorbed energy of Load Representatives in Crete in accordance with the Balancing Market Rulebook and shall also take into account the absorption which corresponds to the meter of the Peloponnese-Crete interconnection as these estimations are carried out by the Network Operator of Non-Interconnected Islands. Moreover, the law regulates the hybrid energy market model which is introduced in the transitional period until the completion of Phase II of the interconnection. The aim of the interconnection project is to put an end to the electrical isolation of Crete and provide the island with affordable, more reliable and green energy supply. Moreover, according to Art. 108 of said law, from 1 August 2021 all high-voltage fixed assets of Crete's electrical system will be transferred from PPC SA to IPTO. More specifically, the high voltage fixed assets which were owned by PPC SA, as of 30.06.2021, and managed by the Hellenic Electricity Distribution Network Operator (HEDNO SA) by the Network Operator of Non-Interconnected Islands will be included in the Hellenic Transmission System of HTSO and are to be transferred to IPTO at a price which is calculated in accordance with the provisions of said law and the rules issued by the Regulatory Authority foe Energy (RAE). The relevant deed for the transfer of the assets shall be concluded within 6 months from the transfer of such assets and the deadlines for the payment of the transfer price is further specified in said law.

Oil & Gas

SA.55526: €166.7 MILLION FOR CONSTRUCTION OF LNG TERMINAL IN ALEXANDROUPOLIS

by Mira Todorovic Symeonides, (Athens)

On 17 June 2021 the European Commission issued decision in case SA.55526 approving the state aid in the amount of €166.7 million, which the Hellenic State will provide for the construction of the LNG terminal in Alexandroupolis. The Terminal consists of a Floating Storage Regasification Unit (the Unit) and a system of a sub-sea and an onshore gas transmission pipeline which will connect the Unit to the Greek Natural Gas Transmission System (the System). The Unit will be stationed approximately 17.6 km from the town of Alexandroupolis in Northern Greece, at an offshore distance of approximately 10 km from the nearest shore. It will have an overall delivery capacity of 5.5 billion cubic meters/bcm per year and will be connected to the System at the new connection point - Kipi-Komotini. On 16 October 2019, Greece notified the Commission of its plans to support the construction of the above LNG terminal which has been included in the list of European Project of Common Interest in the energy sector since 2013. The project will be financed by the Greek State using European Structural and Investment Funds. The beneficiary of the aid is Gastrade S.A., a company whose shareholders are the Greek gas incumbent (DEPA) and the Bulgarian gas Transmission System Operator (Bulgartransgaz EAD).In order to ensure that there is no overcompensation, the project promoter (Bulgartransgaz EAD) will be obliged to give back to the State part of the revenues generated from the terminal, should they go beyond a set capped level over the project lifetime. In addition, the Greek Energy Regulator has put in place certain safeguards, such as a limitation of the share of LNG that can be booked in the terminal by DEPA, in order to prevent an increase in its market position. The Greek Authorities have confirmed that the LNG Terminal would be suitable to use for hydrogen, and that the project would contribute to the security and

diversification of energy supplies in Greece and in the region of South East Europe as well as to a cleaner energy mix through increased use of gas instead of coal.

Infrastructure

APPROVAL OF THE TAP NETWORK CODE

by Mira Todorovic Symeonides, (Athens)

On 17 June 2020 the Greek Energy Regulatory Authority (RAE) issued decision no. 1036/2020 on the approval of the Trans Adriatic Pipeline (TAP) Network Code in compliance with the Joint decision of the energy regulators of Italy, Albania and Greece. By respective decisions of the three regulatory authorities issued in 2013, TAP has, in compliance with Directive 2009/73/EC, approved exemptions to the application of certain Directive provisions for the period of 25 years from the beginning of its operations. The exemptions are from: a) the provisions of article 9 regarding the ownership unbundling; b) the provisions of article 32 regarding the third part access only for the TAP Initial Capacity of 10 bcm, and c) the provisions of article 41 par. (6), (8) and (10) regarding the regulated tariffs for the total capacity of the pipeline (i.e. on both TAP's initial and expansion capacity). This decision also imposed to TAP the obligation to issue the Network Code, which should be previously approved by the authorities, all before the beginning of TAP's operations. The TAP Network Code particularly regulates the following subjects:

- Access of third parties to TAP pipeline: thus, only registered parties can have access upon the condition that such party has purchased one or more TAP capacity products and therefore enter into a gas transportation agreement with TAP;
- Credit limits: If a registered party has a credit rating, the TAP will set a credit limit, otherwise such party should procure a guarantee or pay the required amount into a cash collateral account;
- Capacity products: Forward Firm Capacity is offered, when available, independently at each Interconnection Point, in the form of yearly, quarterly, monthly and daily products; Commercial Reverse Capacity is offered as a combination of equal amounts of Reserved Capacity at one Entry Point and one Exit Point. Physical Reverse Flow is provided for emergency operations only;
- Capacity bookings: Except in respect of the Initial Capacity Allocation Mechanism and Capacity Products booked pursuant to a Market Test, if a Registered Party wants to book Reserved Capacity it must do so through auctions performed by a Capacity Booking Platform;
- Secondary market will be allowed both in case of transfers and assignments;
- Balancing: Shippers' nominations must be balanced (i.e. intakes = offtakes), otherwise, the TAP is charging for the imbalance;
- Planned maintenance: planned maintenances are announced within the 30th of September of each gas year or in any event, not less than 42 days before the day on which the planned maintenance takes place;
- The Code also addresses the issues of nominations, Virtual Trading Point, congestion management, fuel gas, electric power, UFG, and redistribution.

RES

AMENDMENTS OF THE RES ENERGY REGULATIONS

by Alexandra Daniil, (Athens)

In July 2021, Law 4819/2021 was published (OJ A' 129/23.7.2021), the provisions of which establish urgent measures in the energy sector of Greece. Among other, the obligation of RES production certificate holders to provide letters of guarantee was introduced.

Article 137 of Law 4819/2021 introduces, as a condition for the issuance of a producer certificate or a special projects production certificate, the submission to RAE of letters of guarantee regarding the fulfilment of conditions for issuing of the production certificate. The amount of the guarantee provided in the law depends on the capacity of the future plant for which the production certificate is issued and is equal to 35.000 €/MW. In Addition, it is stipulated that this amount may be covered by more than one Letter of Guarantee. The amounts of guarantee may be amended by a decision of the Minister of Environment and Energy.

This obligation applies also to the holders of the RES production certificates issued before the entry into force of this law, if they did not manage to submit the application for issuing of the final connection terms to the grid operator until 31 February 2022. In case they fail to provide the letter of guarantee until 31 February 2021, the respective production certificates will be automatically invalidated.

The main exception from the obligation to provide the above guarantee are for:

a) plants with a maximum production capacity below or equal to 1 MW;

b) plants that were, before the entry into force of this law, approved to be strategic investments in compliance with the Law 3894/2010 (A' 204) or the Law 4608/2019 (A' 66); and

c) certain local government authorities and entities fulfilling public benefit purposes, other than energy communities, such as hospitals, health centers, schools for all levels.

The new Law suspends until 31 December 2024 the submission of applications to RAE and the issuance of new production certificates for the hybrid RES plants on Interconnected Islands or islands which are planned to be connected to the Interconnected System in the period 2019-2028. It also suspends until 31 October 2021 the submission of applications and the issuance of the production licenses, environmental approvals and binding offers for the connection to the grid to the RES production plants with storage system. Plants with pumping storage are excluded. The above suspension shall not apply to applications for amendments of the already issued production licenses and certificates for such projects on the island of Crete and other Non-Interconnected Islands.

It also authorizes the Minister of Environment and Energy, to provide a framework for priority of applications regarding granting of the final terms for connection to the grid for the RES and High Efficiency Cogeneration of Heath and Power (HE CHP) plants by the Distribution Network Operator or the Transmission System Operator, as the case may be. The above ministerial decision should set terms, conditions, and restrictions for certain categories of producers, time margins as well as any other details regarding the priority of applications.

Finally, by way of derogation, the law stipulates the cases of granting access to the saturated grids. Thus any natural or legal person can submit only one application for a final connection offer for a PV solar plant of up to four hundred (400) kW for each saturated network. Specifically, in Peloponnese this additional capacity is limited to 86 MW, in the Cyclades (Paros-Naxos complex, Mykonos, Syros, Andros, Tinos) to 45 MW, in Evia to 40 MW, and in the case of the network of Crete to 140 MW.

MODEL LETTER OF GUARANTEE FOR THE ISSUANCE OF RES PRODUCTION CERTIFICATES

Maria Ioannou (Athens)

On 9 September 2021, the Greek Energy Regulator (RAE) issued decision No. 696/2021 prescribing the specific terms regarding the submission, duration, renewal, forfeiture and return of the Letter of Guarantee to be submitted by interested parties to RAE, that henceforth constitutes a prerequisite for the admissibility of new applications for the issuance of a RES Power Producer Certificate (or a Special RES Project Certificate), pursuant to the newly introduced provisions of Law No. 4819/2021 amending Law No. 4685/2020 (the RES Licensing Law).

According to these new provisions, the required Letter of Guarantee shall amount to Euro 35,000 per MW of maximum production capacity.

The Letter of Guarantee is issued irrevocably and without reservation for the securing of the timely submission to the competent System Operator of a complete application for final grid connection terms (with regard to the non-saturated grid), or of a fully substantiated expression of interest for grid connectivity (with regard to the saturated grid). Proof thereof shall constitute the submission to RAE of a certificate of completeness issued by the respective System Operator. The issuer of the Letter of Guarantee shall waive any right to division as well as the objection of prior enforcement against the applicant, as well as any other right otherwise available to a guarantor under articles 851-853, 855, 862-864 and 866-869 of the Greek Civil Code.

The validity period of the Letter of Guarantee must be commensurate to the relevant deadlines for the foregoing as set out in the law (indicatively, for solar PV, onshore wind and hybrid stations, the total duration stipulated is 36 months, whereas for Special RES Projects 72 months), also further extended by an additional 30 days within which RAE examines whether any potential reasons for forfeiture of the Letter of Guarantee exist or else returns it. To be noted that in case special ecological assessments in connection with impacts on areas of special ecologic interest are required, the duration of the Letter of Guarantee is extended correspondingly.

Similar adjustments are envisaged in case of changes in the licensed production capacity. In the event of transfer of the project, the Letter of Guarantee is returned without effect to the validity of the Production Certificate. However, a request by the project operator for the return of the Letter of Guarantee before the lapse of the aforementioned deadlines effectuates the termination of the validity of the respective Certificate (or the rejection of the respective application to RAE).

The Letter of Guarantee may be issued not only by credit and financing institutions but also insurance companies, whether operating in Greece or in the EU or the EEA, however, in all cases Greek Law shall be applicable and the courts of Athens shall be competent for disputes arising from the issuance of the Letter of Guarantee.

REGULATORY FRAMEWORK FOR THE DEVELOPMENT OF GEOTHERMAL ENERGY IN GREECE

by Kosmas Karanikolas, (Athens)

On 14 May 2021, the national legislative framework aimed at the exploitation and management of Greece's geothermal potential was completed, through the issuance and publication in the Official Gazette (FEK B'1690/2021) of ministerial decision No. ΥΠΕΝ/ΔΑΠ/42138/552, undersigned by the minister of Environment & Energy, encompassing the 'Geothermal Works Regulation' which specifies the relevant provisions of L. 4602/2019. The aforesaid Regulation incorporates provisions on the conduct of research and exploitation works as well as management operations related to geothermal sources, while it also arranges for the rational use of geothermal resources, the assurance of workers' health and safety and the safeguarding of environmental protection.

Introductorily, it shall be reminded that, according to standing legislation (art. 5 of L. 4602/2019) the conduct of research, management and exploitation of geothermal potential is subject to prior conclusion of a relevant lease agreement, following a

tendering procedure. The maximum duration of the lease regarding research works is five years with right of unilateral extension by the lessee for two additional years, while the maximum duration of the lease for exploitation (mere or coupled with management operations) is set up to thirty years but this period can also be protracted for up to twenty additional years, upon unilateral decision of the lessee. The Regulation in question defines, on the one hand, research works as activities intended to the detection of geothermal potential and the determination of its characteristics, including geological, hydrogeological, geochemical and geophysical research thereto, as well as drilling activities and any other complementary works. On the other hand, exploitation works are regarded as entailing all operations, projects and production facilities (well drillings, re-injection drillings, metering systems, pipeline networks, etc.) that ensure safe pumping of the geothermal fluid, energy generation and its transmission, as well as re-injection of the geothermal fluid, after its exploitation, into the reservoir from where it was extracted. Finally, management operations encompass all processes contributing to geothermal resources' rational /sustainable development and comprehensive exploitation, as well as all processes guaranteeing the uninterrupted supply of the system with geothermal fluid, the smooth and continuous energy production in conjunction with high energy efficiency thereof, as well as the avoidance of environmental degradation.

It is noted that prior to the commencement of geophysical research, the lessee shall obtain the lessor's written consent, which is granted within 30 working days after the lessor has ascertained the completeness of the documentation submitted by the lessee regarding the research as well as the lessee's compliance with the terms of the lease agreement. Nevertheless, the lessor's consent does not substitute the lessee's obligation to obtain the required licenses and approvals nor equates to recognition of property rights. The Regulation requires that all works relating to the research, exploitation or management of the geothermal potential shall be conducted in a manner warranting the rational use of the drilling field, the preservation of the quality of the natural, man-made and cultural environment, as well as the protection of both public safety and health and aptitude of the workers involved in the project. For the attainment of the aforementioned objectives, the lessee is required, inter alia, to (a.) be equipped with all permits, approvals, consents and certifications applicable prior to the commencement of his works as well as to strictly comply with their terms, (b.) plan and carry out the works taking all necessary precaution measures as well as apply practices that ensure the quick and effective handling of emergency circumstances, (c.) employ modern, safe and appropriate methods, depending on the type of works conducted, and (d.) maintain facilities and equipment suitable for the type and nature of the works performed as well as employ and train the appropriate staff. Finally, it is underlined that the Geothermal Works Regulation obliges the lessor to take certain measures aimed, mainly, at the restoration of the natural environment, after the completion of a drilling which will not be used or following its permanent abandonment. In this regard, the lessee must clean up the area from waste materials, depositing them to licensed disposal sites, drain accumulated liquids (residues), restore any excavations, seal all boreholes and, in general, restitute the site area in a condition equivalent to that in which it was before the start of the drilling, submitting a relevant full report to the lessor.

Environment

LAW 4819/2021: USE OF WASTE FOR ENERGY PRODUCTION

by Paraskevi Chrysochoidi (Athens)

With the enactment of Law 4819/2021 (Official Government Gazette A' 129/23.07.2021), which came into force on 23 July 2021, regarding waste management, plastic products and the protection of the environment, Greece incorporated into the national legislation the two most important Directives of the second European Action Plan for the Circular Economy (2020), i.e. Directive 2018/851 on waste and Directive 2018/852 on packaging and packaging waste.

The new law upgrades the regulatory framework for waste management thus supporting the National Waste Management Plan with the goal of minimizing landfilling to 10% by 2030, five years earlier than the European Union requirement. This provision sets a particularly ambitious target, as 80% of municipal waste ends up in landfills, which constitutes the third worst performance in the EU, while only 20% of total waste is recycled.

The positive impact is that the aforementioned law introduces alternative ways on waste management, aiming at the transition to circular economy (article 1). Waste management legislation and policy include except for recycling and reuse, other waste streams, such as energy recovery.

"Waste energy production" is a broad term that includes various processes of waste treatment for energy production (e.g. in the form of electricity and/or heat or fuel production), with different environmental impacts and different potential in the context of circular economy. Basic processes of energy production from waste are co-incineration of waste in incineration plants (e.g. in power plants) and secondary fuels in the production of cement and lime, incineration of waste in special facilities, anaerobic fermentation of biodegradable waste, production of solid, liquid and gaseous fuels from waste and other processes involving indirect incineration after the cracking stage or gasification.

The National Waste Management Plan sets out the strategy, policies, and objectives for waste management at national level (article 55 par.1). It should be noted that there is a provision for the creation of waste energy recovery units, from January 2022, where the solid waste will be used for energy production (article 63). The Ministry of Environment and Energy undertakes the responsibility of implementing the energy utilization units that according to the strategic planning are anticipated to operate four factories throughout the country.

Finally, as of January 2022, the total amount of non-recyclable waste (residues) will be used as secondary fuel in the energy-intensive industry and in Energy Utilization Units. This solution will lead to the reduction of landfill waste and the reduction of the dependence of energy-intensive industries on polluting conventional fuels (article 51).

MONTENEGRO

Market

ENC: ADVISORY COMMITTEE ON IMPLEMENTATION OF REMIT REGULATION BY MONTENEGRO AND UKRAINE

By Vuk Stankovic, (Belgrade)

On 20 July 2021, the Advisory Committee rendered its opinions in Case ECS-3/21 against Montenegro and Case ECS-4/21 against Ukraine, supporting the Reasoned Requests submitted by the Energy Community Secretariat (Secretariat) to the Ministerial Council (Council) for issuance of its decision. Having in mind that the Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency ("REMIT Regulation") was incorporated in the Energy Community acquis communautaire by Decision 2018/10/MC-Enc of the of the Council (Decision), all Contracting Parties were obliged to transpose it by 29 November 2019. Also, the Contracting Parties were obliged to notify Secretariat regarding the measures transposing the Decision and any subsequent changes within two weeks following the adoption of such measures. Due to the fact that Montenegro and Ukraine did not comply with this obligation, Advisory Committee rendered its opinions which represent the last step before the Ministerial Council takes a decision on the matter.

ROMANIA

Market

THE BSTDB GRANTS €15 MILLION FOR DEVELOPMENT OF OFFSHORE GAS PRODUCTION

By Raluca Drăghici, (Bucharest)

On 6 May 2021, the Black Sea Trade and Development Bank (BSTDB), a financial institution headquartered in Thessaloniki, published the information about the loan of 15 million euros it granted to three Romanian companies, namely Black Sea Oil & Gas S.A., Petro Ventures Resources S.R.L and Gas Plus Dacia S.R.L. for the Midia Gas Development (MGD) project. The Midia Gas Development (MGD) project aims to develop the Ana and Doina gas fields off the Black Sea.

BSTDB's financing of the Midia Gas Development project is part of an existing financial package developed by international and national banks, including the European Bank for Reconstruction and Development, Credit Agricole, Societe Generale, Banca Comerciala Romana, Raiffeisen Bank International and BRD General Society Group.

Being the first gas production facility built after 1989 in the Romanian Black Sea area, the project will diversify the country's gas supply sources. The project perspectives for the 1st and 2nd quarters of 2021 include the completion of the manufacture of the Ana production platform consisting of jacket and topside, the installation of the jacket and topside in the Ana location in the Black Sea and the drilling of the five production wells. The rest of the land activities are expected to be completed by the 4th quarter of 2021, the first gas production being scheduled to take place in the 4th quarter of 2021.

MANDATORY INSTALLATION OF INDIVIDUAL HEAT ALLOCATORS OR METERS

By Raluca Drăghici, (Bucharest)

On 13 July 2021, Law no. 196/2021 for the amendment and completion of the Law on the public heat supply service no. 325/2006, for the amendment of par. (5) in art. 10 of Law no. 121/2014 on energy efficiency and to complete para. (3) in art. 291 of Law no. 227/2015 regarding the Fiscal Code was published in the Official Gazette no. 693.

According of art. VI of this Law in condominium-type buildings connected to the central heating system, it is mandatory to install measuring systems until 31 December 2021 to individualize energy consumption for heating / cooling and hot water at the level of each apartment or space with a purpose other than residential. If the use of individual meters is not technically feasible or not cost-effective, it is mandatory to install technical systems for determining individual heat consumption, cost allocators, on all heating elements in each apartment or space for a purpose other than living.

A similar regulation existed in Law no. 121/2014 on energy efficiency with the deadline of 31 December 2016.

Unlike the previous regulation where a sanction was not provided in case of exceeding the new law provides for the penalties in case of breach of the above obligation. Thus, the non-observance of the deadline regarding the installation by the owners / tenants of the cost allocators, is sanctioned with a fine from RON 500 (approximately EUR 100) to RON 1,000 (approximately EUR 200) per owner / tenant each time a decision on penalty is passed, until the compliance is achieved.

SERBIA

RES

SERBIA HAS ADOPTED THE LAW ON UTILIZATION OF RENEWABLE ENERGY SOURCES

by Aleksadar Mladenović (Belgrade)

On 20 April 2021, the National Assembly of the Republic of Serbia, adopted a set of energy laws one of which is novel Law on Utilization of Renewable Energy Sources. The law regulates, inter alia, issues concerning the status of a privileged producer of electricity from renewable energy sources (privileged producer), a temporary privileged producer of electricity from renewable energy sources (temporary privileged producer), a system of incentive measures, procedures for obtaining a privileged status and introduces the notion of consumer-producer (prosumer). The law provides for the following incentives: market premium; Feed-in tariffs; undertaking of balancing responsibility; and the right to priority access to transmission or distribution system. The energy plants that may be subject to incentive measures are newly built or reconstructed hydropower plants, biomass or biogas power plants, wind farms, solar power plants, geothermal power plants, biodegradable waste power plants, landfill gas, gas from municipal water treatment plants and for production from other renewable energy sources. One of the most important innovations introduced by the Law is the status of a prosumer, a person who is both a producer and a consumer of electricity. For the first time, the law regulates such a category and stipulates that prosumers will be able not only to produce energy for their own needs, but also to be able to deliver (sell) excess energy to the system and have the right to reduce bills in the next billing period, i.e. for a fee by the supplier. Further the law provides for formation of fund for energy efficiency i.e. the Energy Efficiency Directorate will be formed and will have at its disposal a fund intended for subsidies and increasing the energy efficiency of households in Serbia.

Oil & Gas

ENC: MINISTERIAL COUNCIL DECIDES ON FAILURE TO GRANT NON-DISCRIMINATORY ACCESS TO THE HORGOŠ GAS ENTRY POINT

by Mirjana Mladenović (Belgrade)

On 30 April 2021, the Ministerial Council of the Energy Community (Ministerial Council) issued it decision on the failure of the Republic of Serbia to comply with its obligations under the Treaty in Case ECS-13/17 (Decision)

As we mentioned in our previous Articles, the Republic of Serbia infringes its obligation to ensure non-discriminatory third-party access to the natural gas transmission system. Therefore, on 19 April 2019, the Energy Community Secretariat (Secretariat) submitted a Reasoned Request to the Ministerial Council in Case ECS-13/17, since the Secretariat sent an Opening Letter to the Republic of Serbia to follow up on its Opening Letter of 27 July 2018, in which the Republic of Serbia has been given the possibility until 8 October 2018 to comply of its own accord with the requirements of the Treaty, or to justify its position. In June 2020 the Public hearing was held regarding this issue. On 25 January 2021 Advisory Committee issued the Opinion which it established under Article 32 of Procedural Act No 2008/01/MC-EnC of the Council as of 27 June 2008 on the Rules of Procedure for Dispute Settlement under the Treaty as amended by Procedural Act No 2015/04/MC-EnC.

After above mentioned procedure the Ministerial Council decided that the Republic of Serbia failed to comply with its obligations under the Energy Community Treaty. With this Decision, the Ministerial Council supported the Reasoned Request submitted by the Secretariat and followed the opinion of the Advisory Committee.

COMPLIANCES OF THE THREE NETWORK CODES FOR NATURAL GAS CONFIRMED

by Mirjana Mladenović Paripović (Belgrade)

On 2 September 2021, the Energy Agency of the Republic of Serbia (Agency) adopted the decisions confirming the compliance of the amended drafts of the three network codes relating to the calculation and allocation of capacity for natural gas transmission, data publication and congestion management of the transmission system, cooperation of transmission system operators and data exchange rules. Although there will be three codes, one issued by each operator (Transportgas Srbija d.o.o. Novi Sad, Yugorosgaz-Transport d.o.o. Niš and Gastrans d.o.o. Novi Sad), the provisions of the codes have been harmonized by the operators in accordance with the instructions of the Agency. In accordance with the Energy Law, the transmission system operators should submit the harmonized texts of network codes first to the Agency for confirming their compliance with the instructions, and subsequently, in accordance with the Energy Law, the grid operators will submit the harmonized texts to the Ministry of Mining and Energy in order that it proposes their adoption to the Government of the Republic of Serbia.

COMPLIANCE OF THE CODES ON CONNECTION TO THE TRANSMISSION AND DISTRIBUTION GRID CONFIRMED

by Mirjana Mladenović Paripović (Belgrade)

On 26 August 2021, the Energy Agency of the Republic of Serbia (Agency) adopted a decision on compliance of texts of two network codes which regulate the connection of production units, customers' facilities and direct circuit systems of high voltage to the electricity transmission and distribution system.

These network codes were drafted by transmission and distribution grid operators, Elektromreža Srbije and Elektrodistribucija Srbije, respectively, in line with the instructions adopted by the Agency. The grid operators first submitted the draft network codes to the Agency for the purpose of obtaining the approval on their compliance with the instructions. Subsequently, in accordance with the Energy Law, the grid operators will submit the harmonized texts to the Ministry of Mining and Energy in order that it proposes their adoption to the Government of the Republic of Serbia.

Environment

ENC SECRETARIAT OPENS DISPUTE SETTLEMENT PROCEDURE CONCERNING EIA FOR DRMNO COAL MINE

by Aleksandar Mladenovic, (Belgrade)

On 9 July 2021 the Secretariat opened dispute settlement procedure against Serbia based on a complaint submitted to the Secretariat under Article 90 of the Treaty by the Center for Ecology and Sustainable Development – Bankwatch, Serbia. The complaint is raised due to the alleged lack of environmental impact study in case of expansion of Drmno coal mine is operated by the company OPM Kostolac, a subsidiary of the state owned power incumbent Elektroprivreda Srbije (EPS) as required in compliance with the Energy Community acquis Communautaire on environment, which requires that the Contracting Parties carry out a procedure to identify and assess the likely impacts of the project on the environment and to propose mitigation measure in such a case. The process of Drmno coal mine expansion has started in January 2017 further to the 2014 contract that EPS concluded with China Machinery Engineering Corporation (CMEC), for the construction of the third block of the Kostolac B thermal power plant, with a total capacity of 350 MW, and for the expansion of the Drmno open cast mine (within TE-KO Kostolac)

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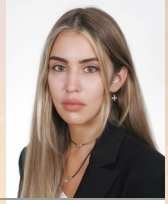

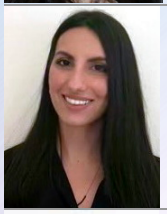

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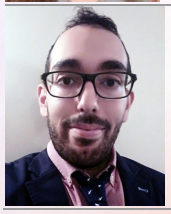

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