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EU and EnC

Oil & Gas

Framework to Decarbonise Gas Markets, Promote Hydrogen and Reduce Methane Emissions

by Kosmas Karanikolas (Athens)

On 15 December 2021, the Commission adopted a series of legislative proposals, that is a Regulation and a Directive aimed at facilitating and accelerating the shift from fossil fuels, such as fossil natural gas to renewable and low-carbon gases, including hydrogen and biomethane, as well as a Regulation pertaining to methane emissions' reduction. It is noted that the said legislative proposals effectuate EU's fundamental strategy to fully decarbonize its energy market and become the first 'climate-neutral' area of the world by 2050 – an ambitious goal, the attainment of which presupposes the realization of the interim target of greenhouse gas emissions' diminishment by 55% until 2030.

In order to encourage the use of renewable and low-carbon gases, the new legal framework establishes a common certification system for low-carbon gases, in line with the certification of renewable gases already set by the Renewable Energy Directive, ensuring a level playing field among Member States and enabling them to duly assess their overall emissions' footprint and accordingly reshape their energy mix. Moreover, the proposed provisions introduce financial incentives for low-carbon gases, such as the removal of tariffs for cross-border interconnections and the mitigation of duties charged at injection points. Acknowledging that currently there are long-term contracts regarding the production / use of fossil natural gas and their premature termination would generate several complications, the Commission suggests that the existing relevant contracts shall not be prolonged beyond 2049.

As hydrogen is regarded as a rather 'climate-neutral' energy source, the aforesaid legislative proposals aspire to establish a hydrogen market conducive to investments, as well as facilitate the development of infrastructure thereto. The designed market rules provide for separation of hydrogen generation and its transmission, while they contain configurations on charges' determination. The relevant provisions are scheduled to be applied in two phases, 2030 signifying the two stages' demarcation line. In addition, the novel framework envisions the establishment of the European Network of Network Operators for Hydrogen (ENNOH) that will be entrusted with cross-border coordination as well as the set-up of relevant infrastructure, including interconnectors' network while the Network is further anticipated to prepare detailed technical rules pertaining to hydrogen's exploitation.

Taking into consideration that methane dissemination remarkably contributes to global warming along with the fact that 60% of methane emissions are anthropogenic, with fossil fuels' production and use being responsible for up to 1/3 of the aggregate relevant releases, the Commission proposes a Regulation encompassing measures aimed at diminishing methane emissions from fossil energy produced or consumed in the EU by 80% until 2030. In this regard, the proposed Regulation is intended to establish the highest standard of measurement, reporting, and verification (MRV) of methane emissions. In this regard, the Regulation's provisions compel undertakings engaging in the oil, gas and coal sectors to measure their methane releases and conduct comprehensive surveys to localize and promptly repair potential methane leakages. Furthermore, the Regulation forbids 'venting and flaring', that is the controlled burning that takes place during fuels' production and processing along with the release of gases - including methane - stemming from such ignition into the atmosphere. Paying due consideration to the fact that restrictions on methane emissions within the EU may reflexively confer a competitive advantage to extra-EU energy providers which are not required to comply with the costly configurations on methane emissions, the Regulation requests fossil fuels' importers to submit information about how their suppliers measure, report, verify and mitigate their methane emissions. It shall be noted that the attainment of the ambitious reduction goal presupposes the drafting of national 'methane mitigation plans' whereby releases from abandoned mines and inactive wells being reckoned with.

Finally, in view of the steep elevation of energy prices in recent months as well as the aggravated geo-political risks that could jeopardize EU's adequacy of gas supply, the legislative package in question adopts a 'twofold approach': on the one hand, it contains measures pertaining to consumers' facilitation in the alteration of their energy suppliers coupled with the introduction of price aggregators that enable consumers acquire accurate, fair and transparent billing information keeping them informed of their energy provider's 'carbon footprint' so that they can elect a supplier that employs renewables and low carbon gases instead of fossil fuels for energy generation. On the other hand, the proposal introduces a mechanism, based on the principle of Member States' solidarity, aimed at addressing potential gas shortages and enhancing the EU's energy resilience, which, inter alia, allows for voluntary joint procurements by Member States with a view to the safeguarding of strategic gas stocks.

Infrastructure

EU: Proposal for a New Regulation on Guidelines for Trans-European Energy Infrastructure

by Dimitrios Mitsakos (Athens)

On 15 December 2020, the Commission has launched a proposal for a new Regulation of the EU Parliament and of the Council on Guidelines for trans-European energy infrastructure and repealing Regulation No 347/2013. The Trans-European Networks for

Energy (TEN-E) Regulation, which is based on Article 172 of the Treaty in the Functioning of the European Union, has provided value and has contributed to achieving results regarding the Union energy market integration, competition and security of supply. Smart grid solutions, including demand response, have developed considerably over the past years because of the acceleration of the digital transformation of the electricity sector.

However, the current TEN-E framework does not yet fully reflect the expected changes to the energy system that will result from the new political context and especially the upgraded 2030 targets as well as the 2050 climate neutrality objective under the European Green Deal. Moreover, the current system network planning is too much based on a sectoral approach and hence does not match the need for smart system integration as investment needs are assessed for the gas and electricity sectors in different processes. The evaluation of the current TEN-E framework has shown delays in the implementation of the so-called "Projects of Common Interests" (PCIs) that have been identified as necessary to achieve the Union climate and energy policy objectives. In 2020, 27% of electricity PCIs were delayed by on average 17 months against their initially planned commissioning date.

For this, the revised TEN-E will particularly aim at: Shortening permitting procedures for PCIs to avoid delays in projects that facilitate the energy transition; improving infrastructure planning for energy system integration and offshore grids; and enabling the identification of the cross-border projects and investments across the Union and with its neighbouring countries that are essential for the energy transition and achievement of the climate targets.

More specifically, current Chapters I, II, IV, which are defining the criteria for smart electricity grids, have been updated to reflect technological change and include elements regarding innovation and digital aspects that could be considered among the equipment or installations for smart grids. Furthermore, TEN-E will include dedicated new and repurposed hydrogen networks with cross border relevance (including hydrogen transmission pipelines and related equipment such as compressors, storage facilities etc.) and power-to-gas facilities above a certain threshold with cross-border relevance. In addition, the criteria for selection of projects now cover a mandatory sustainability criterion for all infrastructure categories with at least one other criterion (market integration, security of supply, competition) at the stage of project selection to ensure coherence with the evolution of the infrastructure needs of the Union and the decarbonization goals. Moreover, provisions under III Chapter aim at shortening permitting procedures for PCIs to avoid delays in projects that facilitate the energy transition. The revised TEN-E introduces an "offshore one-stop shop" to simplify and expedite the permitting process for offshore grids for renewable energy that shall act as a repository of existing sea basin studies and plans, aiming at facilitating the permitting process of individual projects of common interest and issue the comprehensive decisions for such projects.

To conclude, this new TEN-E Regulation is expected to change the development of cross-border energy infrastructure in the coming years in the European Union. However, it remains to be seen whether the provisions of this new TEN-E Regulation are sufficient to achieve the timely expansion of Europe's energy infrastructure.

ENTSO-E & EU DSO Proposal for the First Network Code on Cybersecurity

by Semina Saliaga, (Athens)

On 14 January 2022 a draft network code for cybersecurity aspects of cross-border electricity flows, the Network Code on Cybersecurity (NCCS), was submitted by the ENTSO-E and EU DSO entity to the Agency for the Cooperation of Energy Regulators (ACER) in accordance with Article 59(9) of Regulation (EU) 2019/943. In the electricity market, the basic means of rules harmonization are the Network Codes. These are sets of rules drafted by ENTSO-E, with guidance from ACER, to facilitate the harmonization, integration and efficiency of the European electricity market. The draft proposal for the NC harmonizes with the ACER Framework Guideline on sector-specific rules for cybersecurity aspects of cross-border electricity flows dated 22 July 2021.

According to the Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity, the Commission has identified Cybersecurity as a key area for rules harmonization. The Regulation establishes a network code to address potential cyber threats and to be fit for the digital age, which lays down sector-specific rules for cybersecurity aspects of cross-border electricity flows, including rules on common minimum requirements, planning, monitoring, reporting and crisis management.

The NCCS defines a risk assessment cycle that includes a top-down Union-wide cybersecurity risk assessment to identify, analyze, and evaluate possible consequences of cyber-attacks, as well as a bottom-up risk assessment, from the entities to national level, to regional level.

By the NCCS the distinction of the different entities into critical-impact entities, high-impact entities, and small or micro entities is set, according to a threshold established. The aforementioned entities must implement a series of advanced, minimum, and basic cybersecurity hygiene controls, respectively. These controls will be defined by ENTSO-E and EU-DSO Entity. High-impact and critical-impact entities will have to establish a cybersecurity management system that is based on an international standard, and it will have to be verified either through a certification or through a national verification scheme.

ENTSO-E and EU-DSO Entity are mandated with the creation of harmonized cybersecurity procurement requirements for high-impact and critical-impact entities to use on their procurement processes for ICT products, services, and processes. These cybersecurity procurement requirements must be compatible with Union certification schemes (e.g. EUCS, ICCS) according to Article 36 or through verification activities selected and organized by the entity. The depth and coverage of the verification activities

shall be sufficient to provide assurance that the ICT product, ICT service or ICT process can be used to mitigate the risks identified in the risk assessment at entity level.

The NCCS also introduces changes to the information flows, incident, and crisis management. These include the establishment of CSOC capabilities by critical-impact entities, such as intrusion detection, information sharing, vulnerability scanning, incident response. Moreover, sanitized, and anonymized information will be shared through national CSIRTs, reportable incidents must be reported to the national CSIRT within 4 hours, entities must have a crisis management plan, an early warning system shall be set up, and exercises must be held at entity, national, and regional level.

State Aid

Guidelines on State aid for Climate, Environmental Protection and Energy 2022

by Mira Todorovic Symeonides, (Athens)

On 27 January 2022 (C (2022) 481), the Commission communicated to the Council and published its final revised version of the Guidelines on State aid for climate, environmental protection and energy (the Guidelines), which entered into force in January 2022. They The Guidelines are intended to be a cornerstone in achieving the EU Green Deal objectives, achieving and the increased 2030 climate and energy target. Thus, the Guidelines introduce fundamental changes compared to the previous Guidelines on State aid for environmental protection and energy 2014-2020.

According to the Guidelines, there are thirteen (13) permitted aid categories: reduction of greenhouse gas emissions (support for RES and energy efficiency); energy and environmental performance of buildings; clean mobility (includes acquisition and lease of clean vehicles and investment in infrastructure); resource efficiency and transition to circular economy; reduction of pollution other than from greenhouse gases; remediation of environmental damage and rehabilitation of natural habitats, ecosystems, and biodiversity; aim in the form of reductions in taxes or parafiscal levies; for the security of electricity supply; for energy infrastructure; for district heating and cooling; reductions from electricity levies for energy-intensive users; for the closure of profitable and for closure of uncompetitive power plants using coal, peat or oil shale and of mining operations relating to coal, peat or oil shale extraction; and aid for studies or consultancy services on matters relating to climate, environmental protection and energy.

General compatibility criteria are set as follows: the positive criteria State aid to facilitate the development of certain economic activities within the Union (particularly its positive effects for the society at large and, where applicable, its relevance for to specific policies of the Union, incentive effect of the aid, and absence of breach of any relevant provision of Union law) and negative condition that such aid does not adversely affect trading conditions to an extent contrary to the common interest (particularly the need for State intervention, the appropriateness of the aid, the proportionality of the aid, the transparency of the aid, avoidance of undue negative effects of the aid on competition and trade, and weighing up the positive and negative effects of the aid). The conditions set out in the Guidelines apply to aid schemes and individual aid, whether based on an aid scheme or granted ad hoc, unless otherwise specified. To ensure the transparency, the Member State concerned must ensure the publication in the Commission's transparency award module or on a comprehensive State aid website, at national or regional level, of: (a) the full text of the approved aid scheme or the individual aid granting decision and its implementing provisions; and (b) information on each individual aid award granted ad hoc or under an aid scheme approved on the basis of the Guidelines and exceeding EUR 100. 000.

Aid under the Guidance can be combined with other aid, e.g. the Regional Aid Guidelines (RAG), up to the maximum aid amounts under each instrument, provided that the total amount of aid for a project or an activity does not lead to overcompensation or exceed the maximum aid amount allowed under the Guidelines. RAG, the first State aid rules which were updated following the announcement of the Green Deal entered into force on 1 January 2022, are significant for the possibility of combining regional aid and aid under the Guidance.

Centrally managed Union funding that is not directly or indirectly under the control of the Member State, does not constitute state aid, however if combined with state aid the total amount of public funding granted in relation to the same eligible costs should not lead to overcompensation.

Specific compatibility criteria are provided for all the categories of aid. For example, for some there is a compulsory public consultation of the proposed state aid as in regards to security of electricity supply which will apply from 1 July 2023.

The Guidance should be viewed together with the General Block Exemption Regulation when amended (planned for the first half of 2022), because the proposed revision includes among others: extending the possibilities for MS to provide support for various types of "green" projects; introducing new 'green' conditions that need to be fulfilled for large energy-intensive businesses to receive block-exempted aid in the form reduced tax rates; RES storage projects; and investments in green hydrogen.

The Guidelines replace the Guidelines on State aid for environmental protection and energy 2014-2020 and will apply to all notifiable state aid awarded or intended to be awarded from 27 January 2022. Unlawful aid will be assessed in accordance with the rules applicable at the date on which the aid was awarded.

Revised State aid Rules on Important Projects of Common European Interest

by *Andriani Kantilieraki, (Athens)*

On 25 November 2021, the European Commission adopted a new set of state aid rules on Important Projects of Common European Interest (IPCEI). In more detail, the new rules provide guidance for the assessment of public financing of IPCEIs under Union State aid rules, thus setting specific criteria under which Member States can support transnational projects of strategic significance for the EU under Article 107(3)(b) of the Treaty on the Functioning of the European Union. The revised rules apply as of 1 January 2022.

In light of the above, the Commission adopted the revised IPCEI State Aid rules, after careful consideration of the current rules conducted in 2019 as part of the State aid Fitness Check and after an extensive consultation with all interested parties (Member States, business associations, interest groups, individual companies, NGOs, and citizens). The revised Communication provides among others that IPCEIs must ordinarily involve at least four (4) Member States and should be designed in a transparent and inclusive manner. Furthermore, it aims to facilitate the participation of small and medium sized enterprises (SMEs) in IPCEIs and enhance the benefits of their involvement, through specific facilitations for the assessment of the compatibility of the aid to SMEs, such as the possibility for smaller companies to have a more limited own contribution to the projects than otherwise required.

The Communication also sets out the specific criteria in order for a project to qualify as an IPCEI. Consequently, a project must: be clearly defined in respect of its objectives as well as the terms of its implementation, including its participants and its funding, represent a concrete, clear and identifiable important contribution to the Union's objectives or strategies and must have a significant impact on sustainable growth, for example by being of major importance for the European Green Deal, the Digital Strategy, the Digital Decade and European Strategy for Data, the New Industrial Strategy for Europe and its update, Next Generation EU, the European Health Union, the new European Research Area for research and innovation, the new Circular Economy Action Plan, or the Union's objective to become climate neutral by 2050, be important quantitatively or qualitatively; it should be particularly important in size or scope or imply a very considerable level of technological or financial risk, or both, abide by the principles of Necessity and proportionality of the aid and constitute the appropriate policy instrument to address the objective of the project; An aid measure will thus not be considered appropriate if other less distortive policy instruments or other less distortive types of aid instruments make it possible to achieve the same result. For the aid to be compatible, the negative effects of the aid measure in terms of distortions of competition and impact on trade between Member States must be limited and outweighed by the positive effects in terms of contribution to the objective of common European interest.

German State Aid Scheme for Renewable Hydrogen Production Approved (SA.62619)

by *Viktoria Chatzara (Athens)*

On 20 December 2021 the European Commission published its decision approving a suggested German state aid "H2Global" scheme (case No. SA.62619) concerning the production of renewable hydrogen. Namely, the scheme at hand aims to support investments in the production of renewable hydrogen in non-EU countries, which, however, will subsequently be imported and sold within the EU. The scheme has an estimated budget of €900 million, and is designed to be in force for a period of 10 years after the award of the first contract. Namely, the scheme will be managed by a HINT.CO, a special-purpose entity, and will be implemented on the basis of long-term purchase contracts on the supply side (green hydrogen production) and short-term resale contracts on the demand side (green hydrogen usage). The beneficiaries of the aid will be selected through competitive tender process, in which producers of renewable hydrogen and hydrogen derivatives (e.g. green ammonia, green methanol, e-Kerosene) will be able to participate, provided they comply fully with the sustainability criteria set out by the revised Renewable Energy Directive (or any interim criteria to be set out by the competent German authorities following consultation with the Commission, if the RED is not in force at the time of the auctions), and that they contribute to the deployment or financing of the renewable electricity needed to supply the electrolyzers producing hydrogen under the scheme.

The Commission evaluated the proposed scheme under the applicable EU state aid rules, including, particularly, the 2014 Guidelines on State aid for environment protection and energy. The aid was found to be necessary and having an incentive effect, as the carbon prices and other regulatory requirements render the relevant projects impossible to take place without public support, while at the same time proportionate and limited to the minimum necessary, in view of the competitive auctions process. The Commission also determined that the scheme will contribute in meeting the EU demand for renewable hydrogen, which is expected to significantly increase, as it will support the development of unexploited renewable resource potential outside EU, as well as in meeting the EU environmental objectives, in accordance with the European Green Deal. This is due to the fact that renewable hydrogen can be produced through the electrolysis of water with the electricity stemming from renewable sources, a procedure resulting in almost no greenhouse gas emissions. In view of the above, the Commission concluded that the proposed aid scheme's positive results outweigh any negative effects (in terms of distortions to the competition) and, thus, is in line with the applicable EU state aid rules. The publicly available decision of the European Commission (not including any confidential information) is expected to be published.

RES

Update on the New Developments Regarding Sustainable Finance Taxonomy Regulation

By Sima Zivulovic (Belgrade)

On 18 June 2020 the European Parliament and Council adopted Regulation (EU) No. 2020/852 (Taxonomy Regulation), which establishes a framework to facilitate sustainable investment. Subsequently the European Commission adopted two delegation acts that effectively amended and supplemented said Taxonomy Regulation. On 6 July 2021 the European Commission adopted the Delegated Act supplementing Article 9 of the Taxonomy Regulation (Delegation Act No.1) and on the 2 February 2022 it approved in principle a Complementary Climate Delegation Act on certain nuclear and gas activities (Delegation Act No.2).

The Delegation Act No.1 specifies the content and presentation of information that every non-financial undertakings, asset managers, credit institutions, investment firms, insurance and reinsurance undertakings, financial undertaking that all of the mentioned entities must disclose under Article 8 (1) of the Taxonomy Regulation. The Delegation Act No.1 also prescribes common disclosure rules. The Delegation Act No. 2 regulates certain activities such as: pre-commercial stages of advanced technologies to produce energy from nuclear process with minimal waste from the fuel cycle; construction and safe operation of new nuclear power plants, for the generation/or heat for hydrogen production, using best available technologies; electricity generation from nuclear energy in existing installations; electricity generation from fossil gaseous fuels; high efficiency of heat/cool and power from fossil gaseous fuels; and the production of heat/cool from fossil gaseous fuels in an efficient district heating and cooling system. Delegation Act No. 2 also provides a standard template, in which certain undertaking must disclose specific information that is vital to calculate their respected applicable key performance indicator (KPI).

Delegation Act No.1 obligates the above mentioned undertakings to disclose information referred to in Article 8(1) of the Taxonomy Regulation and disclose additional information stipulated by other Annexes of Taxonomy Regulation that are applicable to each type of undertaking. However, Article 8 establishes common disclosure rules for all financial undertakings and non-financial undertaking where all undertakings, also they must either include a key performance indicators from certain Annexes of the Taxonomy Regulation or provide a cross references to the part of the non-financial statements that contain those indicator that will cover the annual reporting period from the previous calendar year of the date of disclosure. Article 8, also stipulates that financial and non-financial undertakings shall provide key performance indicators covering the previous annual period in the non-financial statement. During the creation of them they must use the same currency as in their financial statements and utilize the most recent available data to calculate their respected key performance indicators. Caution must be applied with complying with Article 8, because the first annual reporting period must cover the year 2023. Article 7 excludes certain exposures to certain entities and derivatives from numerator and/or denominator of key performance indicators of all financial undertakings. Article 7 derogates from the previous rule only in the event if an investee undertaking issues green bonds or debt securities for the purpose of financial activities. The same article provides a breakdown in the numerator where applicable and denominator of key performance for certain instances. All financial undertakings must formalize, document and make public: the applied methodology upon which estimations were based (including the approach, research methodology, main assumptions and used precautionary principles), the proportion of Taxonomy-aligned exposures based on estimates separately from the their key performance indicators disclosed to the Taxonomy Regulation ;the taken measures and the period of time necessary to demonstrate compliance with the criteria law down in Article 3, point (b) of the Taxonomy Regulation.

Delegation Act No.2 as previously mentions covers a broad amount of activities, each activity is given a separate description for each respected activity (ranging from research to deployment and etc..), and technical screening criteria (that is consists of testing for substantial contribution to climate change adaption, do no significant harm ("DNSH") screening test). Interestingly enough upon closer inspection of activities regarding nuclear energy all have the same technical criteria; it only varies in the deadline to meet certain criteria by either 2040 or 2045 depending on the classification of the nuclear plant. Each nuclear energy related activity has a separate description for their respected activities. The same approach is used for all activities relating to fossil gaseous fuels, but when compared to nuclear in the category DNSH screening test it lack a filled bracket in the transition to a circular economy. The deadline for gas projects to be taxonomy compliant is 31 December 2030.

The intended mutual goal of both Delegation Acts is to mainly facilitate the transition from more harmful energy sources to more beneficial renewable energy sources, where strict conditions and specific disclosure requirements must be meet with it. The Worldwide Nuclear Association was correct to emphases that it's necessary for the EU to recognize that fossil gas and nuclear energy sectors can contribute to the decarbonisation of the Union's economy. Notwithstanding the previous statement, the Delegation Act No. 2 must insure that all activities have a different climate change mitigation obligation regarding the level of the lowest amount of direct GHG emission and add the obligation of transition to a circular economy to fossil gaseous fuels related activities. Also, Ayumi Fukakusa is correct and on point when saying that the increase of nuclear energy will lead to rise of total nuclear waste and as a climate mitigation measure is nothing less than the continuation of the society that lead to current state of affairs. Without addressing and including the before mentioned constructive criticism, the EU will only achieve short term milestones, while undermining the long term legal milestones of its own Green Deal.

EnC: Clean Energy Package for All Europeans

by Paraskevi Chrysochoidi, (Athens)

On November 2021, the Energy Community Ministerial Council adopted five legislative acts stemming from the EU's Clean energy package for all Europeans at its meeting in Belgrade, which should be transposed into national law of each Member State until 31 December 2023 (Article 2, Decision 2021/13/MC-EnC). The Clean Energy Package (CEP) is a new set of rules aimed to update the European energy policy framework to facilitate the transition away from fossil fuels towards cleaner energy, the achievement of a carbon neutral Europe by 2050 and the reduce of greenhouse gas emissions. The package, also, puts forward measures to protect vulnerable consumers, to tackle energy poverty and to empower consumers to actively participate in the energy transition. Finally, the Council adopted the Decarbonisation Roadmap for the Contracting Parties of the Energy Community, a political document that puts the Contracting Parties on a path towards achieving 2030 and mid-century decarbonisation targets, which is a challenge for the Council as a whole and its members separately as well.

Energy efficiency

Zero-Emission Buildings in EU by 2050

by Paraskevi Chrysochoidi, (Athens)

On 15 December 2021, in Brussels, a major milestone was reached in terms of energy consumption in buildings in the European Union (EU). Specifically, the European Commission published its proposals for a recast of the Energy Performance of Buildings Directive (EPBD) in the framework of the "Fit for 55" package, which was presented in July 2021.

Firstly, the proposal introduces the definition of "zero-emission buildings" meaning that as of 2030, all new buildings must consume little energy, be powered by renewables as far as possible, emit no carbon emissions from fossil fuels. According to the Proposal, buildings must indicate their global warming potential (GWP) based on their whole-life cycle emissions.

Furthermore, the proposal introduces a building 'Renovation passport' that provides owners a tool to do renovations towards zero-emissions level giving easier access to information of the process and lower costs for the implementation of this plan. Moreover, the Article 3 mentions that National Buildings Renovation Plans will include roadmaps for phasing out fossil fuels in heating and cooling by 2040 at the latest, along with a pathway for transforming the national building stock into zero-emission buildings by 2050.

Also, Member States will need to ensure that public buildings and non-residential buildings are at least class F by 2027, and class E by 2030, with all residential buildings meeting class F by 2030 and class E by 2033. Meeting these targets would require renovation of 15% of the current building stock, estimated at some 40 million buildings across the EU.

Finally, the revised EPBM encourages the use of information and communication technology (ICT) and smart technologies to ensure buildings operate efficiently and calls for digital building databases to be established, such as the Energy Performance Certificates that provide data to owners and buyers and ensure comparability across the EU. Regarding mobility, the proposal requires pre-cabling for new and renovated buildings and supports the rollout of charging infrastructure for electric vehicles in residential and commercial buildings.

Albania

Market

Albania Draft of National Energy and Climate Plan

by Blerta Topore, (Tirana)

In July 2021 the Ministry of Infrastructure and Energy in implementation of the National Energy Strategy (2018-2030) and the Recommendation 2018/01 / MC-EnC of the Council of Ministers of the Energy Community, issued the final draft of the National Energy and Climate Plan. Among other things, this plan sets the national target of reducing Greenhouse Gases by 2030 in accordance with the NDC.

The NECP covers the period 2021-2030, defining the national objectives for each of the five dimensions of the Energy Union as well as the relevant policies and measures to meet these objectives.

On 17 December 2021 the Energy Community Secretariat issued Recommendations on the Draft National Energy and Climate Plan of Albania as follows:

Decarbonisation, a long-term outlook until 2050 in the decarbonisation section of the targets and objectives chapter is not included in the draft NECP. The Secretariat recommends that as part of the long-term outlook to 2050, the final NECP includes additional information on how Albania plans to fulfil the 2050 climate neutrality objective.

Energy Efficiency, the NECP energy efficiency targets are not in line with the targets communicated below National Energy Strategy (-15% compared to base 2030). The Secretariat recommends that the contribution of the energy efficiency target in terms of the absolute level of primary energy consumption in 2030 is clearly indicated in the PKEK. The Secretariat further recommends that Energy Efficiency Obligations and Measures in accordance with Article 7 of the Energy Efficiency Directives have been elaborated in the NECP in more detail than current policy and measure information indicating a target of 1.5% and expected savings of 37 ktoe in 2030.

Energy security - In the policies and measures and in the analytical section in the field of gas it is meant that the main role foreseen for the introduction of natural gas in Albania is to ensure the production of electricity in dry periods when the availability of hydropower plants is low. The Secretariat recommends that for natural gas, the targets and objectives include a clear explanation of what the envisaged role of natural gas in the mix energy is, and a brief explanation why. Targets and objectives in natural gas Security of supply is recommended to be limited to the absolutely necessary level of operational security and business continuity, all planned on the basis of a cost-benefit analysis to avoid investments in "overinsurance" of the sector.

Internal Energy Market, the Secretariat recommends that the objectives and targets for the internal dimensions of the energy market are linked to other relevant dimensions such as energy security and decarbonization. The set of objectives regarding the integration of the electricity market is not ambitious.

Energy Poverty, the draft includes some information on the current status of energy poverty, there are no details on the implemented energy and social policies. A reference to existence policies and measures should be included. Moreover, there is no quantification of disposable income, nor the number of households in general.

Research, Innovation and Competitiveness, the only objectives shown relate to the level of annual public expenditure on research and overall innovation (at 2% of GDP by 2022 onwards) and to the objectives for higher education and research.

Energy Efficiency

Agreement for the Implementation of the "Municipal Project with Intelligent Energy"

by *Blerita Topore, (Tirana)*

In November 2021 the Albanian and Swiss Governments signed a cooperation agreement on the implementation of the "Municipalities with Intelligent Energy Project" (SEMP) aiming to bring better energy management at the national and local levels. Specifically, the agreement was signed by the Albanian Minister of Infrastructure and Energy and the Swiss Ambassador in Tirana, in order to establish new energy management models in at least four municipalities in Albania. The project funded by the Swiss State Secretariat for Economic Affairs SECO has a budget of 5.3 million Swiss francs - approximately 4.8 million euros.

Currently municipalities have not established a framework for energy management. Therefore, the project will work to create capacities for more intelligent energy management with the Energy Efficiency Agency and the municipalities of Shkodra, Korca, Berat and Përmet, which were selected for the pilot phase after a three-step process. A wider involvement of other municipalities is being prepared in the meantime. SEMP will also introduce the European Energy Award model which is the standard for assisting municipalities across Europe in terms of energy efficiency, renewable energy, and sustainable mobility.

The above municipalities will be supported with integrated energy plans and will also be rewarded for good performance with investment funds and further assistance. Some infrastructure investments - quick profit projects - will serve as demonstrations of energy efficiency and will include public lighting, buildings and transportation. The main result expected is the increase in the ability of municipalities to plan and manage energy more efficiently. Approximately 270,000 citizens will benefit from improved public lighting and reduced energy costs.

BiH

State Aid

Advisory Committee's Opinion on Case ECS-10/18 Against Bosnia and Herzegovina

By *Vuk Stankovic (Belgrade) and Sima Zivulovic (Belgrade)*

On the 1 December 2021, the Advisory Committee of the Energy Community (EnC) issued its advisory opinion (Opinion) regarding the Case ECS-10/18 against Bosnia and Herzegovina (Tuzla 7 case), in which it determined that the Federation of Bosnia and Herzegovina (FBiH) breached Article 18(1)(c) of Energy Community Treaty (EnT) and the well-established elements of state aid contained in Article 107 (1) of the Treaty on the Functioning of the European Union (TFEU). Namely, on the 25 September 2018 the Association "Aarhus Centre in BiH" and the CEE Bankwatch Network lodged a complaint against the decision No. UP/I 03-26-1-42-4/18 (contested decision) of the State Aid Council of Bosnia and Herzegovina (SACHBiH) regarding a guarantee issued by FBiH in favour of the Export-Import Bank of China to secure a loan of the public utility of Public Company Elektroprivreda Bosne i Hercegovine d.d.-Sarajevo (EBiP).

The advisory opinion determined relating to whether the state aid has been granted that:

- the borrower is not in financial difficulty
- although the guarantee is linked to a specific financial transaction for a fixed maximum amount and limited in time, the Advisory Committee noted that were a range of additional expenses and costs which could not be determined in advance
- the guarantee covers 100% of the loan
- there were no corresponding guarantee premium benchmark in the financial market

The Opinion determined, relating to the issue whether the state aid has been granted by the state or through state resources, that the FBIH by issuing the guarantee effectively gives a firm and concrete commitment to step in for the payment obligations EPBiH and make State resources available to that end if it proves necessary.

Regarding the criteria of whether such state aid favours certain undertakings or certain energy resources (selectivity), the Opinion states that guarantee in question clearly identifies EPBiH as the ultimate beneficiary of the support by enabling it to borrow at rate that would have been obtainable on the market without the guarantee and by doing so it selectively favours one specific undertaking.

When applying criteria whether there were corresponding guarantee premium benchmark in the financial market, it determined that EPBiH is active in numerous electricity related activities (such as: generation, distribution and supply of electricity) and therefore it must be compliant with Directive 2009/72/EC. It emphasized that the Directive in question aims to liberalise and integrate EnC's energy markets and by issuing the guarantee the FBIH supported the distortion of competition in the generation of electricity market.

When establishing if it may affect trade of network energy between the EnT Contracting Parties, the Advisory Committee clarified that the guarantee regards a generation of electricity project that is connected to cross-border trade in electricity between FBIH and the neighboring markets; therefore it is capable of affecting said cross-border trade.

Bulgaria

Market

Moratorium on the Regulated Market in Bulgaria. The Record High Electricity Prices Lead to Zero Premium for RES producers.

by Apostolos Christakoudis, (Sofia)

On 15 December 2021, the Bulgarian Parliament adopted a moratorium on electricity, water supply and heating prices on the regulated market. The proposal for the moratorium was supported by a large majority in the Parliament. The moratorium was imposed due to the record high electricity prices on the Independent Bulgarian Electricity Exchange ("IBEX") and the expected adjustments in the prices on the regulated market applicable to household customers. The Bulgarian Energy and Water Regulatory Commission ("Regulator") has been prevented from taking any action regarding these price increases until 31 March 2022 by virtue of the moratorium.

The Regulator addressed the electricity price issue by adopting a decision on the premium payments received by renewable energy producers with an installed capacity of 500kW and above. The premiums serve as compensation to the producers for the difference between the repealed preferential feed-in tariffs and the price at which the electricity is sold on the free market. Considering that the electricity prices at IBEX reached record levels and exceeded the preferential feed-in tariffs, the Regulator decided to update the forecast market prices which determine the premium payments before the expiry of the current regulatory period (1 July 2021 – 30 June 2022). As per the new decision, most of the premiums have negative values and therefore the renewable energy producers will not get any premiums from 1 January 2022 until the end of the current regulatory period – 30 June 2022.

The representatives of the district heating companies have already expressed the opinion that the increase in the price of the service is within an average of 13%, but for the capital of the country, for example, the growth is 30%.

To benefit from the current higher market prices, many producers will have to renegotiate price adjustments with their buyers. However, if the respective contracts are not flexible, the producers may suffer from a significant drop in revenue. The market participants expected that the moratorium from December 2021 would also cover the forecast market prices and the premiums set by the Regulator, but the latter has a different view. The Regulator's decision is expected to be appealed given the potential impact on the economic interests of investors.

Greece

Electricity

Interest to be Paid by the Electricity-market Participants to the Operators

by Sofia Getimi (Athens)

On 23 December 2021, Law 4876/2021 was published in the Official Journal (A' 251/23.12.2021) containing a provision on the interest on debts to be paid by the electricity-market participants to the Operators. Pursuant to Article 67 of said law, electricity-market participants who are still registered in the registers of the competent Operators, are obliged to pay interest for financial debts, under the conditions set by the relevant Articles of the Civil Code (Art. 342, 345 and 346), if by virtue of a final court decision interest amounts have been awarded in favor of the final legal beneficiaries. This provision applies to debts that arose during the operation of the electricity market and became overdue until 31.12.2014 and which do not relate to regulated transmission and distribution network charges, non-compliance charges and connection usage rights. The right of the Operators to collect interest according to this article is exercised after the payment of the interest to the final legal beneficiaries. The limitation period of the Operators' claims against the participants starts from the publication of the final court decision awarding interest. The Operators are liable to the final legal beneficiaries only for the return of the interest awarded according to the above. The final legal beneficiaries for the purposes of this article are the persons who, according to the regulatory framework, have claims for financial debts against the Operators, due to their participation in the electricity market. Competent Operators for the purposes of this provision are the electricity TSO (IPTO SA), the electricity DSO (HEDNO SA) and the Renewable Energy Sources Operator & Guarantees of Origin (DAPPEP SA.)

Oil and Gas

Amendments to the Natural Gas System Operation Code

by Mira Todorovic Symeonides, (Athens)

On 29 December 2021, the Greek Energy Regulatory Authority (RAE) issued decision no. 1060/2021 (OJ B' 37/10.01.2022) on the seventh amendments of the Natural Gas System Operation Code (the "Code"), which particularly includes amendments for the operation of the natural gas Trading Platform by the Hellenic Energy Exchange (HEnEx). The amendments were initially proposed by the Natural Gas System Operator (DESFA), and have subsequently been the subject of public consultation. On 19 December 2021 DESFA and HEnEx proposed the Trade Platform sample agreement, and on 24.12.2021 DESFA's final proposal which was adopted by RAE.

In the period from 2015 until now DESFA has, as a provisional measure (RAE's decisions 274/2015 and 774/2019), organized and operated the Balancing Platform until the natural gas Trading Platform is organized and operational. In 2020 HEnEx initiated the procedures of establishing the natural gas Trading Platform with plan to finalise it in January 2022.

The above amendments of the Code particularly include amendments regarding: transactions performed within the Trading Platform and OTC which take part on the Virtual Trading Point as well as the procedures of their notification DESFA; main principles of the Trading Platform agreements regulating the cooperation between DESFA and HEnEx in compliance with Regulation 312/2014; procedures and methods (through continuous trading and/or auctions) through which DESFA undertakes trade with short-term Standardized Products for reasons of balancing of the System; as well as the methodology for calculating negative and positive imbalance settlement prices.

RES

Determining Technologies and Procedures for Next RES Operational Aid Auctions

by Mira Todorovic Symeonides, (Athens)

On 23 December 2021, the Ministry of Environment and Energy issued Decision no. 123726/5096 on determining technologies or/and categories of RES and HE CHP production plants to be included in the operational support through competitive procedures, types of such procedures as technology neutral or not, and determining methodology and procedures for calculation of capacities for

participation in such competitive procedures of plants originated from the countries of the European Economic area (EEA) as cross border project (the Decision), published in the Official Journal B' 6250/27.12.2021.

The Decision first divides all types of procedures into two categories: a) separate auctions for each technology; and b) joint auctions or technology neutral auctions, meaning that different RES technologies may participate in one auction. Within the second category the Decision recognizes three types of procedures: a) general joint auctions in which the participation may be permitted for at least two different technologies; b) joint auctions in certain area will be territorially designed; and c) joint auctions for RES plants with storage will be designed for solar and wind plants with storage.

The auctions will be organized for the following categories of plants: wind above 6 MW, from 60 kW up to 6 MW, and above 10 MW with storage, solar above 1 MW, below 500 kW, from 500 kW up to 1 MW, above 10 MW with storage, and for certain categories of plants held by Energy Communities. Other technologies may be added in case of increased competition for such technologies.

In 2022 the separate auctions for each technology will be organized for small wind (up to 6 MW) and solar (up to 1 MW).

Joint auctions in certain area may be organized after the connection of some of the following Not Interconnected Islands (NII) to the Interconnected System: Nea Makri – Polypotamos with Evia; Cyclades with the System; and/or Crete with Attica.

Joint auctions for RES plants with storage will be organized in the period until 31 December 2025 for wind plants and for PV plants, each with maximum production capacities above 10 MW with integrated electricity storage of guaranteed (useful) capacity equal to 20% of the maximum hourly energy produced.

Further, the Decision regulates the methodology and procedures for calculation of cross-border capacities of RES plants installed in EEA allowed to participate in the above auctions, under condition of active cross-border energy trade with them.

New regulation of the Participation of Small RES Plants in Auctions

María Ioannou (Athens)

On 27 December 2021, the new decision of the Minister of Energy determining the details of the RES auctions was published in the Official Gazette (OJ 6250/B/27.12.2021) (the "Decision"), following the approval by the European Commission of the new Greek RES and HE CHP state aid scheme for years 2021-2025 (Commission Decision No. C(2021), 8651/24.11.2021, SA 60064 - (2021/N)).

According to the Decision, onwards, the so-called "small RES plants" (namely, in general terms, PV solar plants of a capacity not exceeding 1MW and wind plants of a capacity not exceeding 6MW) may receive operational aid by participating in either scale and technology-specific auctions, and/or joint auctions. In other words, the window of opportunity for granting administratively determined operational aid (feed-in-tariffs) to small RES plants, is closing.

More specifically, starting December 2021 and until 31.12.2022, the small RES plants must participate in the auctions, as follows:

- PV solar plants with an installed capacity above 500kW and not exceeding 1 MW, which do not belong to Energy Communities (in technology-specific as well as in joint auctions);
- PV solar plants with an installed capacity not exceeding 500kW, which do not belong to Energy Communities and which are not exempt from the obligation to participate in auctions according to Article 7 para. 3a to 3g Law 4414/2016 (in technology-specific as well as in joint auctions);
- PV solar plants, which belong to Energy Communities, with an installed capacity not exceeding 1 MW and which are not exempt from the obligation to participate in the auctions according to Article 7 para. 3a to 3g of Law 4414/2016 (in technology-specific as well as in joint auctions); and
- Wind plants with a maximum production capacity over 60kW and not exceeding 6MW, the owner of which is not exempt from the obligation to participate in auctions according to Article 7 para. 3a Law 4414/2016 (notably, because he already owns, directly or indirectly, two production licenses of the same technology that are exempt from the obligation to participate in auctions) (solely in joint auctions).

Subsequently, from 01.01.2023 to 31.12.2025, the following small RES plants must participate in the auctions, as follows:

- PV solar plants with an installed capacity exceeding 1 MW (in technology-specific auction); and
- Wind plants with a maximum production capacity over 60kW and not exceeding 6MW (in technology-specific auction).

The details and timing of the next auctions to take place within 2022, will be determined by a separate ministerial decision to follow.

Conditional Permission of Installation of Solar PV Plants on Forested Land

Maria Ioannou (Athens)

On 10 December 2021, the new Law 4872/2021 (OJ A' 247/10.12.2021) was enacted, which introduced, among others, amendments to the provisions of forest legislation regarding the installation of solar PV plants on forest land. More specifically, the newly adopted provisions permit the installation of solar PV plants on forested areas (in Greek: 'dasikes ektaseis', meaning, a thinner type of forestation than that of a typical forest) that have been already legally deforested for agricultural purposes. This amendment was deemed necessary in order to restore the unequal treatment of currently forested areas -in which the installation of solar PV plants is allowed- and of the previously forested areas now used for cultivation purpose – which would otherwise be restricted only to said cultivation purposes.

This new permission is applicable as long as the deforestation of said forested areas had taken place for said agricultural purposes and in accordance with the applicable legislation; if the land has been exploited in compliance with the terms and conditions accompanying the deforestation permits; and if the land is presently being cultivated. Further, it is conditional upon the return of the land to its previous agricultural use after the termination of the operation of the RES plant (also in accordance with its environmental licensing) or after the decommissioning of the plant for any other reason. In special cases, in which the deforestation took place for the cultivation of specific plants envisaged in Article 43 para. 1 to 4, the installation of the PV solar plants is conditional upon the issuance of a new forest intervention permit for said new purpose.

The 'Roadless Mountains' Initiative

by Maria Ioannou (Athens)

Furthermore, on 31 December 2021 the Ministry of Environment and Energy issued Decision YΠEN/ΔΔΦΠΒ/119000/3593 (OJ D' 1007/31.12.2021) ('the Decision') which introduces the general prohibition of any road works and -more generally- human intervention on the pristine natural environment of the mountainous region of Lefka Ori on the Island of Crete, as specified with the relevant published coordinates. This area largely coincides with two Natura 2000 areas under the code numbers GR4340014 and GR4340008 as well as with the National Park of Samaria, and the Decision shall apply for two years. Thus, it is expected to affect, among others, also the licensing procedures and the development of any new RES plants in the relevant area. However, the maintenance of already installed RES plants that are duly permitted, should not be affected by this Decision. Also not affected are interventions for national defense purposes, and measures against natural disasters and for the restoration of the natural environment.

According to the Ministry's press announcement, this policy initiative is being adopted for the protection of the integrity of the natural habitats and fauna and flora of specific, environmentally significant mountainous regions, especially in light of the upcoming designation of land uses in such environmentally sensitive areas. This policy shall extend to a total of six mountainous regions of Greece, denoted under the newly introduced term of 'Roadless Mountains', namely in Crete, Samothrace, Ipeiros, Grevena, the Peloponnese and Thessaly.

Extension of Various Deadlines for RES Projects

by Maria Ioannou (Athens)

1) Extension of performance guarantees for participation in the RES auctions

On 8 December 2021, RAE released an announcement regarding the extension of the duration of the performance letters of guarantee submitted for the participation in certain RES auctions.

The necessity of this extension follows after the adoption of legal provisions that extended the deadlines for the commencement of connection and trial operation of the RES plants that participated in certain auctions, and also in compliance with the already included automatic extension clause that these letters of guarantee have pursuant to the Template Letter of Guarantee included in the relevant RAE announcements of the individual auction procedures.

More specifically, the duration of performance letters of guarantee is extended as follows:

i) For RES projects that participated successfully in the auctions that took place pursuant to RAE Decisions No. 649/2018, 1230/2018, 436/2019, 705/2019, 1246/2019 and 675/2020; and for PV solar plants of an installed capacity not exceeding 5MW that participated successfully in the auctions that took place pursuant to RAE Decision No. 1142/2020, the duration is extended by four

months, in line with the four-month extension of the deadline for their entering into trial operation introduced with article 122 of Law 4685/2020 [deadline for normal or trial operation within 1.1.2021 until 31.12.2021].

ii) For RES projects that participated successfully in the auctions that took place pursuant to RAE Decisions No. 649/2018, 1230/2018, 436/2019, 705/2019, 1246/2019, 675/2020 and 1142/2020, the duration is extended by ten months, in line with the ten-month extension of the deadline for their entering into trial operation introduced with article 93 of Law 4796/2021.

iii) For RES projects that participated successfully in the auctions that took place pursuant to RAE Decisions No. 649/2018, 1230/2018, 436/2019, 705/2019, 1246/2019, 675/2020 and 1142/2020, and under the condition that during the time of their participation, the RES projects were legally required to participate in the auctions, the duration is extended by twelve months, in line with the twelve-month extension of the deadline for their commencement of the connection introduced with article 121 para. 5 of Law 4685/2020.

2) Suspension of licensing procedure for hybrid projects

Pursuant to Law 4876/2021 (OJ 23.12.2021), the licensing procedures (production licensing, environmental licensing and connection to grid) concerning hybrid projects that combine RES technology with storage, is suspended until 31 March 2022.

3) Extension of deadline for the adjustment of RES polygons

Pursuant to the same Law 4876/2021, the deadline for the holders of RES Production Licenses to adjust the polygons of their plants in compliance with the restrictions set out in article 13 of Law 4685/2020 (under penalty of rescission), is extended until 31 March 2022.

Lastly, the abovementioned Law 4876/2021 also contains provisions concerning the extension of deadlines especially for PV solar plants of Energy Communities and for RES projects located in Western Macedonia.

State aid

Scheme for the Development of RES in Non-Interconnected Islands in Greece Approved

by Konstantinos Ntallas (Athens)

On 21 December 2021 the European Commission in case no. SA.58482 approved, under EU State aid rules, a €1.4 billion incentive scheme to promote renewable electricity deployment across 47 islands (including the largest, Crete) in Greece. The 47 islands involved, will be covered by the scheme until their eventual connection to mainland Greece. The scheme will be partly financed by the nation's Recovery and Resilience Fund, paid out as part of Europe's post-Covid recovery package.

As a result of the Programme, 29 autonomous Non-Interconnected Island (NII) electricity systems in Greece will be supported by hybrid power stations, which both generate and store solar and wind-based electricity. The scheme is intended to supplant around 80% of electricity generation across these 47 islands, which currently depends on diesel and oil. As pointed out by the Commission, due to saturated grids, adding storage facilities to renewable electricity generation units is necessary to increase the share of RES in the electricity system on these islands. Overall, through this measure Greece aims to support 264 MW of new renewable capacity until the end of 2026.

The Commission assessed the scheme and concluded that the scheme is proportionate and limited to the minimum necessary and it is also in line with EU State aid rules, without unduly distorting competition in line with the European Green Deal. The aid was held to be necessary to contribute to the expansion of solar photovoltaic and onshore wind energy in the Greek islands, as well as to the reduction of greenhouse gas emissions by replacing oil and diesel installations.

Construction of Hydroelectricity Storage Facility in Amfilochia Approved

by Andriani Kantilieraki, (Athens)

On 20 December 2021, the European Commission issued a press release on the decision to approve, under EU State aid rules, a Greek measure to facilitate the construction and operation of a pumped hydroelectricity storage facility in Amfilochia (case number SA.57473). The approved measure will be financed in part by the Recovery and Resilience Facility ('RRF'), following the Commission's positive assessment of the Greek Recovery and Resilience Plan and its adoption by the Council.

The project involves the construction and operation of a storage facility with the capacity of 680 Megawatts (MW) in Amfilochia, which will be connected to high-voltage transmission lines. The goal of the undertaking is to ensure the effective transition of the

Greek system to renewable energy, abiding by the decarbonization target set under the European Green Deal. The aforementioned transition will be facilitated by the provision of support to the existing RES units and the introduction of new ones.

After the assessment of the above in line with the EU State Aid rules (in particular Article 107(3)(c) of the Treaty on the Functioning of the European Union), the Commission held that the aid is both necessary and effective, since the project would not be carried out without the public support. The measure was also held proportionate and in light of its inclusion to the European Projects of Common Interest, the Commission further concluded that the positive effects of the measure outweigh any potential distortion of competition and trade brought about by the support. In conclusion the Commission approved the aid, which will take the form of a €250 million investment grant and of an annual support – financed from a levy on electricity suppliers – to complement market revenues, in order to reach an acceptable rate of return on the investment.

New Development Law - Greece Strong Growth

by Konstantinos Ntallas (Athens)

On 04 February 2022 Law 4887/2022 "Development Law - Greece Strong Growth" was published on the Government Gazette. The purpose of the law is to promote the economic development of the country by granting incentives to specific activities and sectors, in order to achieve the digital and technological transformation of businesses, the green transition, the creation of economies of scale, the support of innovative investments and those seeking to introduce new technologies of "Industry 4.0", robotics and artificial intelligence, the strengthening of employment with qualified personnel, the support of new entrepreneurship, the support of less favoured sectors, the support of the development of new businesses, the promotion of the development of the economy and the creation of new jobs.

In order to achieve these objectives, provisions have been introduced to accelerate all procedures for the assessment, approval, control and certification of investment projects under its schemes. The Development Law sets out the conditions for inclusion and the framework for the establishment of schemes for the granting of state aid. Through this framework, thirteen new aid schemes are introduced which will allow the business community to plan, develop and implement their initiatives with significant and modern forms of investment in all sectors of the Greek economy. In addition, in conjunction with the New Regional Aid Map, the maximum aid rate can be up to 75% for certain regions.

There is a wide range of types of aid under the New Development Law, such as a) a grant to cover part of the eligible costs of the investment project, b) leasing subsidy, which consists of covering part of the leasing instalments paid for the acquisition of new machinery, c) tax exemption, which consists of the exemption from payment of income tax on pre-tax profits, d) subsidy for the cost of employment created, which consists in covering the wage costs of the new jobs created and linked to the investment project, e) risk financing, which applies only to investments under the New Business scheme. The above aid is granted at a percentage of the maximum allowable aid intensities as set out in the New Regional Aid Map, which vary according to the aid scheme and the size of the investment vehicle. The first three (3) aids are granted individually or in combination, while the fourth (4th) is granted separately. The financial contribution of the investor is covered either by own funds or by bank loans.

The minimum amount of investment is defined on the basis of the size of the entity, i.e: for large enterprises in the amount of €1.000.000, for medium-sized enterprises in the amount of €500,000, for small enterprises: €250,000, for micro-enterprises, in the amount of €100,000 etc. Eligible for aid under the schemes of the Law are enterprises that are established or have a branch in Greece, irrespective of their size.

Montenegro

Market

Montenegro Passed Law on Monitoring of the Wholesale Electricity and Natural Gas Market

By Vuk Stankovic (Belgrade) and Sima Zivulovic (Belgrade)

The National Assembly of Montenegro on the 31 December 2021 enacted the Law on monitoring the wholesale electricity and natural gas market (Official Gazette of Montenegro, No. 1/2022) (REMIT Law) pursuant to the provisions of the Decision of the Ministerial Council of the Energy Community (D/2018/10/MC-EnC). Therefore, it successfully transposed Regulation (EU) No. 1227/2011 (REMI Regulation) into its legal system. This REMIT Law consists of five chapters.

In Introductory chapter, the REMIT Law defines two important terms, the first being market participant and second being monitoring organ. A market participant represents a natural or legal person, entrepreneur, and operator either of distributive or transmission system that: gives out work orders for trading electricity or natural gas on the wholesale market; and conducts transactions intended for purchasing or selling electricity or natural gas on the wholesale market. The monitoring authority is the Energy and Water Regulatory Agency of Montenegro (Agency). The Agency must keep a registry of all market participants on the wholesale electricity and natural gas market, while obligating market participants to firstly register at the Agency before giving out any worker orders relating to trading or realization of transactions concerning sales of electricity or natural gas on the wholesale market. Further, it obligates them to update their information if a change occurs and it imposes a strict deadline to comply, precisely 24 hours from the moment of the change.

The Law imposes an obligation of market participants to publicly disclose insider information. It defines insider information in the following manner: „Information shall be deemed to be of a precise nature if it indicates a set of circumstances which exists or may reasonably be expected to come into existence, and if it is specific enough to enable a market participant to draw a conclusion as to the possible effect of that set of circumstances or event on the prices of wholesale energy products, but are not made public; they must concern one or two wholesale energy products and would likely have a significant affect the prices of those wholesale energy products.” Besides the previous definition, the information in question must fulfil the following additional requirements: related to capacity or utilization of facilities for production, storage, usage or transfer of electricity or natural gas, it can also include capacity and utilization of facilities for liquefied natural gas or lack of its availability; related to functioning of the wholesale market and are published in line with law that regulates cross border exchanges of electricity and natural gas; and said information must be utilized by a market participant as a basis of his decision to enter into a transaction on wholesale market.

The Law gives market participants exactly 24 hours from the moment of the insider information inception to publicly disclose said information on one of the electricity systems that are on the list of the Agency for cooperation between energy regulators (ACER). Also, a market participant must create a list (and update it accordingly) which lists all other market participants that have access to insider information and it stipulates that it must be sent to the Agency 24 hours after the creating the list. Market participants with insider information are prohibited to the following actions before they publish the insider information: use that information during sales or purchases or attempts of selling or purchasing in any capacity; transfer that information to third party, unless it represents essential information need for performing regular activities; and entice another natural or legal person to buy or sell a wholesale energy product that is related to insider information.

There are derogation from the previous obligation (while maintaining the obligation of market participants of notifying the Agency of the transaction once it has been done) if a market participant: is a producer of electricity or natural gas, system operator for storing natural gas or a terminal operator for importing liquefied gas, if: does so for the purpose of the transaction is to cover physical losses which can be attributed to his unplanned outages that made is so that he cannot fulfill his contractual duties; does so an operator of transmission system, does so in order to insure a secure and reliable functioning of the system in accordance with law that regulates how to conduct energy related activities; and does so in order to ensure supply of electricity and natural gas during disturbances in the wholesale market in accordance with the law that regulates how energy related activities.

Market participants of wholesale energy market are forbidden to: to conduct or try to commence a transaction, give or try to work orders that will: a) provide untrue or fraudulent signals about supply, demand or price of wholesale energy products; b) through cooperation of market participants maintain or that will maintain a prices of one or more wholesale energy markets that does not coincide with the actual wholesale market, unless a market participants proves that his actions were in line with law, c) give or keep other market participants in a state of delusion about supply, demand or price of wholesale energy products; transfer or try to transfer information via the media, internet or other means untrue and delusional information about supply, demand or price of wholesale energy products; and commences with activities or try to commence them in order to maintain or that will maintain rices of one or more wholesale energy markets that does not coincide with the actual wholesale market.

There is a broad investigational powers of the Agency such as: access information about all transactions and work orders on the wholesale energy market; request any facts or information needed to monitor the wholesale energy market; request statements from markets participants and/or employees about conducting transactions and obtainment of work orders for trading on the wholesale market; conduct direct control in the market participants commercial space; and publish yearly monitoring reports on the activities of the wholesale market.

Romania

State aid

Aid for Romanian Power Company Complexul Energetic Oltenia SA Approved

by Semina Saliaga (Athens)

On 5 February 2021, the European Commission opened an in-depth investigation to assess whether the restructuring plan of Romania regarding the power company Complexul Energetic Oltenia SA (CE Oltenia) and the related restructuring aid measures, were in line with EU State aid rules, and more specifically with the Commission's Guidelines on rescue and restructuring aid. These Guidelines enable Member States to support companies in financial difficulty under specific strict conditions. On this basis, the Commission gave its green light, under EU State aid rules, to a €2.66 billion scheme in the form of grants, a state guarantee for loan, a capital injection, and a loan-to-grant conversion, in order to ensure CE Oltenia's long-term viability.

This scheme is expected to promote Romania's decarbonization plans to replace lignite-based electricity production with electricity produced from natural gas and renewables (solar and hydropower), as well as support the green objectives of decarbonization set out in Romania's Recovery and Resilience Plan (RRP).

The Commission assessed the Romanian scheme and concluded that it is in line with EU State aid rules, by further providing compensatory measures to limit potential distortions of competition in the Single Market triggered by the aid. This, includes the creation by CE Oltenia of dedicated special purpose vehicles for co-investment and operation of natural gas and photovoltaic power plants, as well as bans on the acquisition of interests in competing operators. The aid was found to be necessary to restore Oltenia's viability, appropriate as it addressed both its liquidity and solvency issues by meeting at the same time its environmental targets, and, proportionate as it combined company's own-contribution and fresh funding by private investors and financial institutions. Also, the restructuring plan ensured that the viability of the company can be restored without continued state support and by safeguarding to make sure that possible distortions of competition are kept to the minimum and that the measures will support the EU decarbonisation objectives in line with the European Green Deal and with EU environmental rules.

Modification of Romanian Aid Scheme to Support High Efficient Cogeneration

by Dimitrios Mitsakos (Athens)

On 20 December 2021, the Commission announced the approval of the modification of a Romanian scheme supporting high efficient cogeneration by extending the funding period and the possible allocated budget for such projects. Following the evidence provided by the Romanian authorities that the duration of support was insufficient to ensure the long-term viability of the combined heat and power (CHP) plants, the Commission assessed the measure under EU State aid rules and found that the modification of the scheme is necessary, appropriate and in line with the European Green Deal. Hence, the support period for CHP plants increased from up to 11 years to up to 21 years, and the scheme budget increased from approximately €2.2 billion to approximately €4.4 billion in order to cover the additional period during which a plant can receive support.

Serbia

Market

Serbia Opens Cluster 4 in EU Accession Negotiations

by Aleksandar Mladenovic, (Belgrade)

On 14 December 2021, at the Intergovernmental conference on the accession to the European Union, the Republic of Serbia opened a Cluster 4 which concerns Green Agenda and Sustainable Connectivity, consisting of four chapters: Chapter 14 – Transport Policy, Chapter 15 - Energy, Chapter 21 - Trans-European Networks and Chapter 27 - Environment and Climate Change.

In the past the issue of environmental and climate change has proven controversial as even though Serbia made significant progress in the adoption of European legislation in this area its implementation often lags. This particularly relates the Law on Integrated Prevention and Pollution Control the deadline for which implementation has been prolonged, allowing the biggest industrial entities to operate without obtaining the IPPC.

Framework Document of Republic of Serbia for Issuing Green Bonds

by Sima Zivulovic (Belgrade)

On 9 September 2021, the interdepartmental working group published the Framework document for issuing green bonds, pursuant to the provision of the Decision for forming interdepartmental working group for drafting the Framework document for issuing green bonds in international financial market (Official Gazette of RS, No. 59/2021) and subsequently on 16 September 2021 the Republic of Serbia emitted its first green bond which has an estimated value of 1 million euros.

The Framework document for issuing green bonds on paper is in line with the International Capital Market Association's (ICMA) Principles on Green Bonds and this notion was confirmed by an independent third party auditor. The Serbian government did not apply for certify said green bond under the Initiative for Climate Bonds Scheme for pre or post issuance certification for green bonds.

The Framework in question is divided into three chapters: utilization of funds, procedure for evaluating and deciding costs, fund management and reporting. The first chapter list several categories of projects that are only eligible to receive funds gathered from emitting green bonds and the list of covered projects ranges from renewable energy sources to protection of biodiversity and environment. The second chapter stipulates that only the original interdepartmental working group that published the framework has the jurisdiction to decide in all procedures relating to evaluate and decide where and to whom to allocate the funds gathered from the emitted green bonds. The third chapter establishes the jurisdiction and sole responsibility of the Department of public debt to issue green bonds. While the final chapter sets out the obligation of the Department of public debt to draft and release to the general public a separate Report concerning the allocation of funds gathered from green bonds.

The ramifications of enacting this green bonds framework and emitting the green bond are twofold, the first being that it introduced a new method of gathering funds to finance sustainable development projects, and the second being that it lead to short rise of interest of foreign stakeholders in the activities of the Serbian Exchange Market. Notwithstanding the previous statement, from the 16 September 2021 up until the moment of writing the Department of public has not meet its mandated obligation of publishing a separate report on allocation of funds gathered from the first green bond. However, the green bond in question may be found as a Eurobond in the Department of public debt Monthly Report on the analysis of Serbia's public debt for September 2021. This blatant lack of transparency and inconsistency in practice coupled with the almost *lex specialis* nature of this framework undermines: the Law on Capital Markets, the Law on Control of State Aid, the jurisdictions of the Security Commissions and especially the Commission for Control of State Aid. Despite the special nature of the framework, the Commission for control of State Aid did not in its Legal Stance on the government's proposal for a scheme for aiding production of energy from RES (Commission for Control of State Aid, No. 401-00-00237/2021-01/3) address the blatant breach of its jurisdiction. The main premise and conditions to successfully apply the ICMA's Principles on Green Bonds are high levels of transparency, legal certainty and predictability.

RES

Opinion Regarding Framework of the Support Scheme for Renewable Energy

by Vuk Stankovic (Belgrade) and Sima Zivulovic (Belgrade)

On 4 November 2021, the Serbian Commission for State Aid Control (Commission) by virtue of Article 31 of the Law on control of state (Official Gazette of the Republic of Serbia, No. 73/19), issued an opinion No. 401-00-00237/2021-01/3 regarding the framework of the support scheme for renewable energy (Opinion), that was created by the Ministry of Mining and Energy.

The Ministry of Mining and Energy requested the opinion on support scheme in order to comply with Article 20 Energy Community Treaty (EnT), Directive 2009/28/EC and Decision D/2012/04/MC – ENC of the Ministerial Council. The Ministry in question asked the Commission to gives its opinion about: (i) Draft proposal of the Decree on feed-in tariff (FiT); (ii) Draft proposal of the Decree on the market premium (FiP) and model contract for FiP; and (iii) Draft proposal of the Decree on quotas.

The first decree stipulates that applicants of FiT must indicate the date of payment of FiT and the guaranteed supplier is obligated to calculate and give monthly instalments.

The second decree stipulates a strict inclusion of a floating and two-sided FiP in the model contract for FiP. Authorized participants can only apply for such market if auctions for receiving FiP are from the electricity produced by solar plants with capacity of 500 kW or more, or wind power plants with the capacity of 3 MW and more. The methodology for deciding on the maximum buyout price for FiT and FiP is the same. They are determined by the Energy Agency of the Republic.

The third decrees regulates the procedural rules regarding auctions clearly sets us which applicants have the rights to request to participate in the auction, available quotas sorted by types and capacity of plants, information about the geographical location regarding quotas (under the condition that the quotas are sorted by geographical location), amount of maximum market premiums. Also procedural rules for the following phases of auctions: (i) qualification phase; and (ii) bidding and filling quotas phase.

The following RES technologies may receive the above subsidies: HPP, biomass, wind, solar, geothermal, biodegradable waste, landfill gas, and liquid waste processing.

The Commission determined that all of before mentioned decrees do constitute state aid, however it came to conclusion:

1. That the scheme will bring about the realization of common goal: Serbia has sign the Green agenda for Western Balkans thus undertaking the obligation to implement measures to mitigate climate change and pollution; the above scheme will achieve the goals of such agenda.
2. The need of state intervention: the Ministry of Mining and Energy and the Directives of the Energy Community concluded that Serbia should implement measures that are required to achieve the goal of creating electricity from RES.
3. There is an incentivizing effect: – the scheme in question and its current version incentivizes the users to change his behaviour in the direction of achieving a common goal.
4. Suitability: the state aid in question uses an auction process that creates lesser distortion of completion and it uses public resources, however it achieves the common goal.
5. Proportionality: the above instruments usually insure that subsidies will be minimal and that the two-sided premium provides better protection against price risks.

In it last remarks in finally concludes that decrees are in compliance with domestic rules for granting state aid and that they are in line with the public policy of the Republic of Serbia, However, the EU and Energy Community Secretariats are yet to give their final say. While the future, success and implementation of said scheme is yet to been seen.

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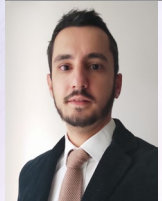
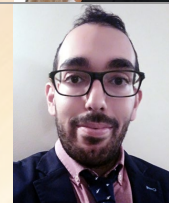
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