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Global Legal Group

The International Comparative Legal Guide to: Gas Regulation 2011

A practical cross-border insight into Gas Regulation work

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1 Overview of Natural Gas Sector

- 1.1 A brief outline of Albania's natural gas sector, including a general description of: natural gas reserves; natural gas production including the extent to which production is associated or non-associated natural gas; import and export of natural gas, including liquefied natural gas (LNG) liquefaction and export facilities, and/or receiving and re-gasification facilities ("LNG facilities"); natural gas pipeline transportation and distribution/transmission network; natural gas storage; and commodity sales and trading.**

The natural gas production in Albania started in 1968 at Divjaka gas field with an annual domestic production of 70 million Nm³. The peak production of natural gas was reached in 1982 with 0.937 billion Nm³, with the discovery of Cakran field. Differently from the Divjaka field, the gas of Cakran field was associated gas as Cakran was a condensated gas field. The total number of gas wells in Albania is estimated to be over 500, with a cumulative production of natural gas of 3.15 billion Nm³, while the cumulative production of associated gas is estimated around 8.7 billion Nm³. After the 90's, the natural gas production was considerably reduced by reaching 12 million m³ per year. The number of producing wells of natural gas has actually been reduced to around 20 and production is almost minimal (from 200 to 300 Nm³/day). Until 1990, the domestic natural gas supplied the fertilisers industry and the oil and electricity industry, and very little went to the residential sector.

The development of the natural gas sector in Albania is one of the priorities set out in the National Strategy of Energy. Albania is not connected to the international gas networks. Under these actual conditions, the supply of Albania with gas is foreseen to be achieved through international gas networks, for which there are three existing options: (i) serve as a terminal of the regional gas pipeline with Russian natural gas from Macedonia or Greece; (ii) serve as a transit point for the gas pipeline designated for the supply of Western Europe, through Italy, with natural gas coming from Caspian region via the "Transadriatic" or otherwise known as the "TAP"; or (iii) serve as a terminal for liquefied natural gas in the Adriatic coast.

The TAP has been considered to be the optimal solution for Albania and is valued as the most efficient gas pipeline from the 4 project corridors of supply to Southeast Europe. It includes the option of developing the storage of natural gas in Albania, which shall increase the security of supply of gas. The TAP project represents a rational solution with an important impact for the economic development of our country. It represents a major project in the energy infrastructure of Albania by contributing to the gasification

of our country, and considered to be a huge contribution towards security of energy supply for the country.

- 1.2 To what extent are Albania's energy requirements met using natural gas (including LNG)?**

According to official sources, the total energy consumption in Albania ranges up to approximately 5.7 Ktoe/10,000 inhabitants. The most important share in energy consumption is covered by the crude oil which covers 3.96 Ktoe/10,000 inhabitants, followed by electric energy with 1.00 Ktoe/10,000 inhabitants, fire woods with 0.68 Ktoe/10,000 inhabitants, lignite with 0.05 Ktoe/10,000 inhabitants and other sources with approx. 0.02 Ktoe/10,000 inhabitants. We are informed that in fact a very minor part of the energy requirements are met using natural gas. (Please note that the aforementioned figures are not up to date and date back to 2007.)

- 1.3 To what extent are Albania's natural gas requirements met through domestic natural gas production?**

Based on limited publicly available information it seems that a very minor part of natural gas requirements is met through domestic natural gas production.

- 1.4 To what extent is Albania's natural gas production exported (pipeline or LNG)?**

There are no published official data on this issue.

2 Development of Natural Gas

- 2.1 Outline broadly the legal/statutory and organisational framework for the exploration and production ("development") of natural gas reserves including: principal legislation; in whom the State's mineral rights to natural gas are vested; Government authority or authorities responsible for the regulation of natural gas development; and current major initiatives or policies of the Government (if any) in relation to natural gas development.**

The applicable Albanian legal framework forming the legal basis for natural gas exploration and production activities is primarily the Law No.7746, dated 28 July 1993 "On hydrocarbons (exploration and production)", as amended, ("Petroleum Law") and also the regulation "For the procedures of the approval of petroleum agreement and license agreements", approved by the Ministry of

Economy Trade and Energy (“METE”).

All natural gas deposits existing in their natural condition within the jurisdiction of Albania, including maritime areas, are of the exclusive property of the Albanian State. The ownership of the natural gas is transferred to the producer through a Production Sharing Agreement (“PSA”) with the METE, which is represented by the Albanian Natural Resources Agency (“AKBN”). The main responsibilities of AKBN includes, *inter alia*: (i) consulting, proposing and cooperating with relevant government structures to design its policies in the field of hydrocarbons; (ii) negotiating of the PSA under the legislation in force; (iii) auditing expenditures made by companies pursuant to the PSA; and (iv) preparing the documentation and practices necessary for the issuance of permits, licenses and authorisations; a petroleum agreement (of which a type is a production-sharing agreement and really the only type of petroleum agreement used) shall be negotiated and finalised, granting the investor company wishing to exploit the natural reserves the right to explore or produce natural gas within designated areas and terms specified in the agreement. There are a very few rules and restrictions or even standards for the preparation, conclusion or negotiation of terms in a PSA; this has, to date, largely been left to the parties to negotiate.

2.2 How are the State’s mineral rights to develop natural gas reserves transferred to investors or companies (“participants”) (e.g. licence, concession, service contract, contractual rights under Production Sharing Agreement?) and what is the legal status of those rights or interests under domestic law?

The rights to develop natural gas are granted to investors pursuant to contractual rights under to a PSA concluded with the METE. The basic terms and conditions (albeit very basic) of the PSA are provided in the Petroleum Law, leaving lots of room for the parties.

2.3 If different authorisations are issued in respect of different stages of development (e.g., exploration appraisal or production arrangements), please specify those authorisations and briefly summarise the most important (standard) terms (such as term/duration, scope of rights, expenditure obligations).

The Petroleum Law provides for 3 types of authorisations, which are all granted in the PSA (note that no other separate permit is issued): (a) an exploration permit giving the exclusive right to conduct exploration within the contract area (i.e. the designated geographical parameters) for a period not exceeding 5 years, or 7 years in special circumstances; (b) a production permit giving the exclusive right for a period not exceeding 25 years to develop and produce reserves of gas located in the Contract Area; and (c) the right to construct and operate pipelines in Albania. Note responses under question 5.1 below for a licence for other activities related to natural gas.

2.4 To what extent, if any, does the State have an ownership interest, or seek to participate, in the development of natural gas reserves (whether as a matter of law or policy)?

As provided in the Petroleum Law all mineral deposits, including natural gas, existing in their natural condition within the jurisdiction of Albania, are the exclusive property of the State and all such resources are to be used for the benefit of the people of Albania. Therefore, the State has an ownership interest as a matter of law but also as a matter

of policy. The natural gas reserves in Albania are not yet fully exploited due to the absence of the infrastructure and investments in the sector, and the State is willing and looking to co-operate with foreign investors for the development of the natural gas sector.

2.5 How does the State derive value from natural gas development (e.g. royalty, share of production, taxes)?

The State derives value from the exploitation and production natural gas as a form of a share of production specified in the Production Sharing Agreement. The Investor is only subject to tax on profit, according to the Law No.7811, dated 12 April 1994, “On approval of Decree No.782, dated 22 February 1994 “On the fiscal system in the hydrocarbons sector (Exploration-Production)”, and the Royalty according to the Law No.9975, dated 28 July 2008 “On the National Taxes”. The tax is at the rate of 50% of the realised profit and the Royalty is 10% of sales revenues. The Law does not really set out a specific manner of the calculation of the share or parameters, such is subject to negotiations. There have been cases where the State has been willing to offer certain tax exemptions to investors in the PSA upon the phase of exploitation, but we note that any specific tax exemption in Albania must be provided for by law.

2.6 Are there any restrictions on the export of production?

The only restrictions on the export of production acquired by the Investor under the Petroleum Law are those required to be set in the PSA to cover events of an emergency or obligation to supply the local market.

2.7 Are there any currency exchange restrictions, or restrictions on the transfer of funds derived from production out of the jurisdiction?

No, they are no restrictions *per se* in currency exchange in Albania, and repatriation of funds is permitted under the Foreign Investments Law. There are however some notification requirements on the second tier banks in Albania on the transfer of funds in a foreign currency (e.g. they must request basic information such as source of funds, any legal documentation attesting to the lawfulness of the funds and any other documentation that might be required pursuant to the banking legislation).

2.8 What restrictions (if any) apply to the transfer or disposal of natural gas development rights or interests?

Although the Petroleum Law is silent with respect to any restriction applying to the transfer or disposal of natural gas development rights or interests, from practice generally we find that the PSA contains some restrictions mostly related to the transfer, assignment (total or partial) of the rights and interests to be made only with the prior approval of the Albanian Government.

2.9 Are participants obliged to provide any security or guarantees in relation to natural gas development?

In principle, no security has to be provided by the participants. They have to submit an operation plan, however, which needs to demonstrate the financial ability and strength to duly operate the production. The METE shall not enter into a PSA if it is not convinced that the participant has or can acquire the financial resources and technical competence required to fulfill the obligations under the Petroleum Agreement.

2.10 Can rights to develop natural gas reserves granted to a participant be pledged for security, or booked for accounting purposes under domestic law?

There are no legislative mechanisms to pledge the actual rights granted under the PSA; the same applies to general mining rights, and simply due to the fact that such permits are not freely transferrable they cannot be pledged. There are however no restrictions on the pledging of the Investors' moveable or immoveable assets, but again there shall be restrictions on pledging of the investor company shares as typically there are restrictive changes of control provisions in the PSA.

2.11 In addition to those rights/authorisations required to explore for and produce natural gas, what other principal Government authorisations are required to develop natural gas reserves (e.g. environmental, occupational health and safety) and from whom are these authorisations to be obtained?

Any investor wishing to develop natural gas reserves in Albania must obtain key permits such as an environmental permit, a construction site and a construction permit, for the construction of the infrastructure required for the activity. The Petroleum Law provides that when an investor has entered into a PSA with METE, the latter mentioned will use all endeavors to assist in ensuring that the investor acquired all permits, licences, approvals or other lawful authorisations it may reasonably require to enable production operations to be carried in accordance with the PSA.

2.12 Is there any legislation or framework relating to the abandonment or decommissioning of physical structures used in natural gas development? If so, what are the principal features/requirements of the legislation?

There is no legislation relating to this issue but any activity or construction or demolition etc must comply with the requirements of environmental protection and urban planning legislation, and of course with heed to general legislation on the safety of citizen's health, life and property.

2.13 Is there any legislation or framework relating to gas storage? If so, what are the principle features/requirements of the legislation?

There is no specific legislation relating to the manner of gas storage but the Law "On Natural Gas Sector", dated 30 June 2008, ("Gas Law") does provide some key requirements. According to this Gas Law the activity of storing gas should be performed by any entity that has legal rights over the designated areas for natural gas storage (either by owning or possessing such areas), in accordance with the PSA or concession right granted by the Albanian Government. These entities are obliged to manage these areas for securing the optimisation and the system integrity and they also bear the obligation to provide natural gas storage services to those entities requesting the use of such storage capacities on the condition that these services are technically and economically feasible. The Energy Regulatory Entity ("ERE") defines the criteria and the priority access for the storage areas in applying the principle of rights of equality and non-discrimination between users.

3 Import / Export of Natural Gas (including LNG)

3.1 Outline any regulatory requirements, or specific terms, limitations or rules applying in respect of cross-border sales or deliveries of natural gas (including LNG).

There are no specific requirements or terms in respect of cross-border sales or deliveries of natural gas. These activities will remain to be regulated through agreements between parties willing to import/export natural gas, in accordance with international agreements which the Albanian Government is party to and by taking into account the provisions of the Energy Community Treaty.

4 Transportation

4.1 Outline broadly the ownership, organisational and regulatory framework in relation to transportation pipelines and associated infrastructure (such as natural gas processing and storage facilities).

The Law "On the development, transportation and trade of oil, gas and their by-products" sets the regulatory framework in relation to transportation pipelines and associated infrastructure. Network and associated facilities are under the ownership of the respective operators. These operators must be established as joint stock companies and must conduct gas transportation activities pursuant to the obtained concession permit.

Additionally, according to the Petroleum Law, the Council of Ministers will grant the operator the authorisation to construct, lay and operate pipelines within the territory of Albania after it has entered into a PSA with the METE, and ownership issues of the network and associated facilities shall be regulated in the PSA.

4.2 What Governmental authorisations (including any applicable environmental authorisations) are required to construct and operate natural gas transportation pipelines and associated infrastructure?

To construct and operate natural gas transportation pipelines and associated infrastructure one requires to obtain either a concession permit (pursuant to the Law "On the development, transportation and trade of oil, gas and their by-products" or a special permit with a 30-year term with the right of renewal (pursuant to the Gas Law) approved by the Council of Ministers. *(It is noteworthy that these two types of permits are essentially granting the same rights but offered under the two different laws, the earlier not having been expressly repealed.)*

Additionally some of the key permits required include *inter alia* also: (i) the environmental permit pursuant to the Environmental Protection Law; (ii) the construction site and construction permit; and (iii) the infrastructure permit according to the new law "On Territorial Planning", which shall be given for works on the public infrastructure networks, national or local, and for structures in the areas of transport, energy, water administration, telecommunications, and land protection.

4.3 In general, how does an entity obtain the necessary land (or other) rights to construct natural gas transportation pipelines or associated infrastructure? Do Government authorities have any powers of compulsory acquisition to facilitate land access?

The investor that has obtained the concession permit or special

permit for the construction and operation of gas transportation pipelines and associated infrastructure is to enter into contractual agreements with the respective land owners over which the pipeline will be constructed, by means of an easement agreement as provided by the Albanian Civil Code (this shall be the case if the land is both State or private-owned).

Another options is that the investor may benefit from the provisions of the Law "On Expropriations and Temporary Use of Private Property for a Public Interest" No.8561, dated 22 December 1999 as amended, ("**Expropriation Law**"), which provides for the expropriation or the temporary use of the private property which is only to be applied in cases when the performance of the works is considered to be for the public interest and is done with full and fair compensation to the owner.

4.4 How is access to natural gas transportation pipelines and associated infrastructure organised?

Currently there is no regulation to determine rules and procedures for access of third parties for natural gas transportation pipelines and the organisation of associated infrastructure. The ERE is under the drafting process of a regulation on Third Party Access to the natural gas network.

4.5 To what degree are natural gas transportation pipelines integrated or interconnected, and how is co-operation between different transportation systems established and regulated?

There are currently no rules on this issue.

4.6 Outline any third-party access regime/rights in respect of natural gas transportation and associated infrastructure. For example, can the regulator or a new customer wishing to transport natural gas compel or require the operator/owner of a natural gas transportation pipeline or associated infrastructure to grant capacity or expand its facilities in order to accommodate the new customer? If so, how are the costs (including costs of interconnection, capacity reservation or facility expansions) allocated?

See response to question 4.4 above.

4.7 Are parties free to agree the terms upon which natural gas is to be transported or are the terms (including costs/tariffs which may be charged) regulated?

See response to question 4.4 above.

5 Transmission / Distribution

5.1 Outline broadly the ownership, organisational and regulatory framework in relation to the natural gas transmission/distribution network.

According to the Gas Law the ERE is the regulatory authority that establishes the criteria for ensuring to users with equal treatment and freedom of access to the gas transmission/distribution network, and defines the duties of the natural gas transmission/distribution operators. The ERE issues the licences *inter alia* for activities such as: (i) transmission; (ii) distribution; (iii) supply; (iv) trade; (v) operating in the storage areas; and (vi) operating of LNG plants. These licences for transmission, distribution and supply are granted

to only one entity for operating in a defined area. Only in cases operation is through direct lines (i.e. natural gas pipelines directly connecting the client with the natural gas source) is a licence not necessary. The activity of natural gas transmission and distribution is of a public interest and is performed respectively by a Transmission System Operator ("TSO") and a Distribution System Operator ("DSO"). These operators own, operate, construct and maintain the transmission/distribution systems. They act in transparency and objectivity avoiding the discrimination between the system users. The system operators conclude grid connection and grid access agreements with the third persons seeking access. The grid access can only be refused if such access is technically or economically impossible or unreasonable. Upon the request of the interested parties, in cases when the TSO and DSO refuses third party access to the grid, the ERE may review such decisions and in case of an unjustified refusal will order the granting of access. The TSO/DSO publishes the terms and conditions approved by the ERE for granting access to the transmission/distribution system to the third parties.

There is currently no DSO or TSO in the gas sector, nor are there any Codes published in this respect.

5.2 What Governmental authorisations (including any applicable environmental authorisations) are required to operate a distribution network?

In order to operate a distribution network the entities has to obtain the distribution licence issued by the ERE in accordance with the Gas Law. This licence is issued on a case by case basis and shall contain such terms and conditions as are deemed necessary, convenient or prudent by the ERE. Before applying for a distribution licence the entity has to obtain the environmental permit, construction site and construction permits.

5.3 How is access to the natural gas distribution network organised?

The natural gas distribution network, as a public interest activity within a defined area, is operated by the DSO. Other entities can operate after being licensed by the ERE. The DSO provides an efficient and stable distribution of the natural gas in accordance with the licence terms. The DSO is obliged to connect to the distribution network any client upon request. The Distribution Code is to regulate the gas distribution network by implementing all the provisions for the managing, operating, maintenance and development of the distribution network and the general conditions of the supply, as the application and pre-payment for access to the distribution network, the metering etc.

5.4 Can the regulator require a distributor to grant capacity or expand its system in order to accommodate new customers?

The DSO must connect local customers upon request, in a non-discriminatory manner, to its grid, provided that the operator has sufficient capacity and that the works necessary to make the connection are technically and economically feasible according to the criteria issued by the ERE. The ERE is entitled to order the DSO to grant capacity to new customers in cases that the operator has rejected the access in violation of the rules issued on this matter, but it cannot order the operator to expand its system if this is economically unreasonable. Additionally the DSO and TSO will prepare long-term investment plans for the development and expansion of the distribution and transmission network for natural gas, and such plans will be approved by the ERE based on cost recovery analysis.

5.5 What fees are charged for accessing the distribution network, and are these fees regulated?

The ERE is the authority that regulates the fees for accessing the distribution network and also for the payment of connection with the distribution network. Fees and their calculation are transparent and non-discriminatory. These fees enable the trade and efficient competition of the gas market. The ERE publishes all the fee proposals in the Official Gazette.

5.6 Are there any restrictions or limitations in relation to acquiring an interest in a gas utility, or the transfer of assets forming part of the distribution network (whether directly or indirectly)?

Currently the ERE has drafted the “Natural Gas Sector Rules and Procedures on Licensing, Modification, Partial/Full Transfer, Revocation and Renewal of Licenses”, which is not yet in force but is to be approved shortly. Pursuant to this draft regulation, upon the request of the Licensee ERE may transfer partially or fully the licence to another person in compliance with the Law No.9072, dated 22 May 2003 “On Power Sector” as amended. In case of the full or partial transfer of ownership of assets, the Person to whom the assets are to be transferred shall apply to the ERE for a new licence for the activities to be transferred.

Any person wishing to transfer all or a part of its rights, titles, or interests owned in the licensee shall first give written notice to the ERE, identifying the proposed new owner of such interest and specifying the draft terms and conditions, including, but not limited to, all financial terms and conditions, of the proposed transfer. Subject to existing legislation, any such transfer shall be subject to the prior written consent of the ERE which consent shall not be unreasonably withheld or delayed.

6 Natural Gas Trading

6.1 Outline broadly the ownership, organisational and regulatory framework in relation to natural gas trading. Please include details of current major initiatives or policies of the Government or regulator (if any) relating to natural gas trading.

The natural gas trading is regulated by the Gas Law. In order to conduct natural gas trade activities in Albania the entities has to obtain the trade licence to be issued by the ERE. Pursuant to the draft regulation on the “Natural Gas Sector Rules and Procedures on Licensing, Modification, Partial/Full Transfer, Revocation and Renewal of Licenses” which is not yet in force, the ERE is entitled to issue licences *inter alia* also for: (i) supply of natural gas (retail sale); and (ii) trading of natural gas (wholesale) for companies that met the requirements of this regulation. The duration of the validity of a licence for supply and trading shall be for a term of 5 years with the right of renewal.

6.2 What range of natural gas commodities can be traded? For example, can only “bundled” products (i.e., the natural gas commodity and the distribution thereof) be traded?

The law does specify any range, only that the trade of natural gas is an activity subject to licensing requirements. We are not aware of any legal restrictions concerning trading of unbundled products.

7 Liquefied Natural Gas

7.1 Outline broadly the ownership, organisational and regulatory framework in relation to LNG facilities.

According to the Gas Law the LNG system operator has to be a person who is licensed by the ERE to operate LNG plants. The main duties of the LNG system operator are the operation, maintenance and the secure, stable development of the plant. The LNG system operator also has to: (i) connect the plant with the transmission network in accordance with the technical requirements for the usage of the plants; (ii) establish and provide a metering system for the gas movement; (iii) dismiss and the regasification of the LNG upon the signed contracts; (iv) provide similar (equal) and non-discriminatory conditions for the plant access; and (v) provide regular information for the transmission system operator and gas trade participants, related to the functioning and development of the interconnected systems and also for the expected reduction of plant capacities.

The LNG system operator has the right to refuse the access to the plants in the cases provided in the Gas Law. The LNG operator has also the rights to: (a) buy natural gas for its own needs and for the compensations of the plant losses; (b) restrict or prohibit temporally the dismissal and regasification of the LNG when there are serious threats on human life, health and wealth, in case of planned works for the maintenance and reconstruction of the plants, and when the users don't respect their contractual obligations.

7.2 What Governmental authorisations are required to construct and operate LNG facilities?

In order to construct and operate LNG facilities the entity has to obtain a special permit to be granted by the Council of Ministers for a 30-year period, with the right of renewal to be followed with the licence of operating LNG plants from the ERE and also the environmental permit and construction site and construction permits by the respective authorities.

7.3 Is there any regulation of the price or terms of service in the LNG sector?

No, to date there is no regulation of the price or terms of service in the LNG sector.

7.4 Outline any third-party access regime/rights in respect of LNG Facilities.

Please refer to question 4.4 above.

8 Competition

8.1 Which Governmental authority or authorities are responsible for the regulation of competition aspects, or anti-competitive practices, in the natural gas sector?

The authority responsible for the regulation of competition aspects and anti-competitive practices for all sectors is the Albanian Competition Authority (“ACA”) as provided in the Law “On the protection of competition” No.9121, dated 28 July 2003 as amended (“Competition Law”). Saying that means that the ACA is also the competent authority for the regulation of competition aspects for the natural gas sector. The ACA evaluates and

authorises or prohibits transactions which give rise to anti-competitive practices. The ACA is composed by the Competition Commission, which is the decision-making body and the Secretariat with investigating, monitoring duties.

8.2 To what criteria does the regulator have regard in determining whether conduct is anti-competitive?

The ACA undertakes studies in different economic sectors by performing periodic collection and assessment of information. The ACA supervises and undertakes economic evaluations of different market structures in order to identify any anti-competitive conducts since in their early stage. This enables the ACA, upon its own initiative or with the request of regulators institutions of respective sectors, to undertake a general investigation in a given economic sector in cases when the prices are set or other circumstances make believe that the competition is limited or distorted. If the Secretariat of the ACA believes, after undertaking a “preliminary investigating procedure” upon its own initiative or a request of interested enterprises, that there are reasonable grounds that would lead to limitation of the competition, it may initiate the “in-depth investigation procedure”.

8.3 What power or authority does the regulator have to preclude or take action in relation to anti-competitive practices?

Where the ACA finds out that an infringement of the Law exists, its final decision may consist in obligating the entities to terminate the infringement (such as an annulment of the prohibited agreement or bringing to an end the abusive practice). Additionally, the Competition Commission may impose on the concerned entities any remedies such as those of a structural nature.

The Commission decisions taken for the above-mentioned infringements shall be published in the ACA’s Official Bulletin.

8.4 Does the regulator (or any other Government authority) have the power to approve/disapprove mergers or other changes in control over businesses in the natural gas sector, or proposed acquisitions of development assets, transportation or associated infrastructure or distribution assets? If so, what criteria and procedures are applied? How long does it typically take to obtain a decision approving or disapproving the transaction?

As in all sectors (as there are no gas sector specific rules to date), the ACA has the power and the right to approve or disapprove mergers and other changes in control over businesses in the natural gas sector as provided in the Competition Law. The Competition Law authorises the ACA to prohibit any concentration of undertakings which considerably restricts or is expected to restrict the competition in particular by creating or strengthening the dominant position of one or more undertakings.

With the most recent changes to the Competition Law a concentration must be notified to the ACA, in order to be authorised, if certain thresholds are met.

The deadline for the notification is 30 calendar days from the date of the conclusion of an agreement for the merger, acquisition of control, creation of a joint venture or submission of a public bid for acquisition or exchange.

The ACA must decide whether to clear the transaction or commence an in-depth investigation within two months of the receipt of notification. The ACA may, however, extend this deadline by a

further two weeks if the participating parties commit, not later than one month after acknowledgment, to undertake to remedy any adverse effects of the merger in order to obtain clearance.

Where the ACA commences an in-depth investigation, it has three additional months from the date of the decision to commence the further investigation in order to decide whether to unconditionally clear the concentration, clear it subject to conditions or prohibit the concentration. Where the parties submit undertakings with a view to remedying any adverse effects on competition - within 2 months from the date of commencement of the in-depth procedure - the 3-month period is extended by up to a further 2 months.

If the ACA does not decide within the set deadlines (either for the preliminary phase or the in-depth phase), the Competition Law provides for the “silent-is-consent-rule”, unless the ACA extends or suspends the above-mentioned time limits.

9 Foreign Investment and International Obligations

9.1 Are there any special requirements or limitations on acquisitions of interests in the natural gas sector (whether development, transportation or associated infrastructure, distribution or other) by foreign companies?

There are no such special requirements or limitations on acquisitions by foreign companies in the gas sector.

9.2 To what extent is regulatory policy in respect of the natural gas sector influenced or affected by international treaties or other multinational arrangements?

The Albanian natural gas market is influenced by international treaties and all the agreements in this sector have to comply with the requirements of these treaties or other international agreements. Albania is a party of the Energy Community and has signed the Athens Treaty on 25 October 2005 (ratified by the Albanian Parliament with Law No.9501, dated 3 April 2006).

10 Dispute Resolution

10.1 Provide a brief overview of compulsory dispute resolution procedures (statutory or otherwise) applying to the natural gas sector (if any), including procedures applying in the context of disputes between the applicable Government authority/regulator and: participants in relation to natural gas development; transportation pipeline and associated infrastructure owners or users in relation to the transportation, processing or storage of natural gas; and distribution network owners or users in relation to the distribution/transmission of natural gas.

The Gas Law foresees that disputes between gas operators and between them and customers will be settled by the ERE, which issues special rules for the dispute settlement procedures. The ERE decision for the settlement of disputes is binding for the parties unless there is a suspension decision or final decision by the competent court. The ERE may request to the licensees for the development of internal mechanism for the resolution of the disputes. For claims of the interested parties to a licensee in matter of the network or storage access, the ERE has to take a decision within 2 months after receiving the appeal. The ERE has the power to impose economic sanctions on gas operators in case of violations of the rules and duties defined in the licence or in the Law.

10.2 Is Albania a signatory to, and has it duly ratified into domestic legislation: the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards; and/or the Convention on the Settlement of Investment Disputes between States and Nationals of Other States ("ICSID")?

Albania is not a signatory party of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards but has duly ratified this convention on 27 June 2001, which entered into force on 25 September 2001.

Albania also signed and ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States on 15 October 1991, which entered into force on 14 November 1991.

10.3 Is there any special difficulty (whether as a matter of law or practice) in litigating, or seeking to enforce judgments or awards, against Government authorities or State organs (including any immunity)?

There is no special difficulty in litigating or seeking to enforce judgments or awards against the Government authorities or State organs neither as a matter of law nor as a matter of practice.

10.4 Have there been instances in the natural gas sector when foreign corporations have successfully obtained judgments or awards against Government authorities or State organs pursuant to litigation before domestic courts?

To the best of our knowledge, we are not aware of any particular

cases, but nothing should prevent a foreign corporation from successfully enforcing a judgment against the Albanian government authorities or State organs if all the civil procedural rules and regulations are complied with.

11 Updates

11.1 Please provide, in no more than 300 words, a summary of any new cases, trends and developments in Gas Regulation Law in Albania.

The ERE, with the goal of developing the natural gas industry and enhancing the transparency and efficiency of the whole process of obtaining rights to operate in this sector, is currently in the process of preparing the secondary legislation which consists mainly of the following issues:

- Developing the Rules of procedure for the granting, modification, renewal and removal of licence in the natural gas sector.
- Developing the draft rules on Third Party Access.
- Developing the first draft rules of the licences for transmission, liquefied gas and storage.
- Analysis of the possible market models for natural gas in Albania.
- Developing the tariff methodologies for natural gas sector.

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Dorian Kashuri is a lawyer who graduated at the Tirana Law Faculty in 2006 and was admitted to the Tirana Bar Association in 2008. Since 2009, Mr Kashuri has served as an Associate within the Infrastructure & Natural Resources Department, consolidating his expertise in a large range of legal areas including inter alia Energy, Infrastructure, Public Procurement, Concessions, Public Private Partnerships, Project Financing, Environmental protection, etc.

Mr. Kashuri has a broad expertise in advising some major local and foreign companies, serving as a team member in some of the most important projects related mostly with public procurement, administrative procedures, concessions, energy, environment, mining, licensing, etc. Mr. Kashuri has provided some qualitative legal assistance to several local and foreign companies mostly related to the Infrastructure project, concession-related matters, licensing, environmental protection, waste management, energy regulation (gas, electricity, wind power, solar energy), public procurement, mining regulations, banking and financing, etc.

Mr Kashuri is familiar with the legal and regulatory framework of renewable energy projects in Albania, notably from extensive due diligence reviews in the framework of major M&A operations.

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Eglon Metalia is a lawyer who graduated at the Tirana Law Faculty. Mr Metalia joined KALO & ASSOCIATES in 2010, serving as an Associate within the Infrastructure & Natural Resources Department. The scope of his work in Natural Resources extends across the entire energy chain: gas (exploration and production, storage, LNG, transport and supply), power (generation, transport and supply), renewables, heat etc. Mr Metalia has provided some qualitative legal assistance to several local and foreign companies, mostly related to the energy regulation and also infrastructure, concession related matters, licensing, environmental protection, public procurement, mining regulations, etc.



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