

Gas Regulation

in 29 jurisdictions worldwide

2014

Contributing editors: David Tennant and Jennifer Davis



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David Tennant and Jennifer Davis
Dentons UKMEA LLP

Getting the Deal Through is delighted to publish the fully revised and updated 2014 edition of *Gas Regulation*, a volume in our series of annual reports, which provide international analysis in key areas of law and policy for corporate counsel, cross-border legal practitioners and business people.

Following the format adopted throughout the series, the same key questions are answered by leading practitioners in each of the 29 jurisdictions featured. New jurisdictions this year include Colombia, the European Union, Ghana, Myanmar, Norway and Turkey. The publication also benefits from a new Global Overview authored by David Tennant and Jennifer Davis at Dentons UKMEA LLP.

Every effort has been made to ensure that matters of concern to readers are covered. However, specific legal advice should always be sought from experienced local advisers. *Getting the Deal Through* publications are updated annually in print. Please ensure you are always referring to the latest print edition or to the online version at www.GettingTheDealThrough.com.

Getting the Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. *Getting the Deal Through* would also like to extend special thanks to contributing editors David Tennant and Jennifer Davis of Dentons UKMEA LLP for his assistance with this volume.

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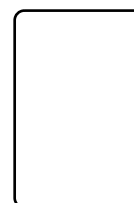
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Croatia

Miran Maćešić and Ivana Manovelo

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Description of domestic sector

- 1 Describe the domestic natural gas sector, including the natural gas production, liquefied natural gas (LNG) storage, pipeline transportation, distribution, commodity sales and trading segments and retail sales and usage.

Last year saw the final stage of Croatia's gas sector liberalisation. On 14 March 2013, the new Gas Market Act (Official Gazette No. 28/13, 14/14) (the GMA) entered into force, gradually implementing the EU Third Energy Package in Croatia, with full implementation occurring on 1 April 2014. Amendments to the GMA passed on 5 February 2014 allow the government to postpone full implementation by decision, and to nominate one entity for an additional three years as the only wholesale market supplier to buy gas at regulated prices from the national producer and sell it at regulated prices to the public service suppliers.

Regardless, according to the GMA, market activities are the production of gas, production of natural gas, supply of gas to eligible customers and trading on the gas market (the price and quantity of delivered gas is freely negotiated). On the other hand, transport, distribution, storage, supply of tariff customers and gas market organisation are regulated activities and are performed as public service obligations. The non-discriminatory third-party access regime has applied since 2008.

Croatia's gas sales market has been fully open since 1 August 2008; as a result, all customers have acquired eligible customer status. This means that all customers have the legal right to choose their gas supplier and freely contract the quantity and price of the supplied gas. Some non-household customers, due to their fixed and predictable demand, have switched suppliers and are buying gas on the free market. On the other hand, not one tariff consumer (household) has switched suppliers. The household market is still underdeveloped due to high logistics and investment requirements. Industry gas prices for 2013 amounted to €12.7/GJ (a 102 per cent increase since 2008), while household prices amounted to €10.3/GJ (a 12 per cent increase since 2008).

More than 50 per cent of Croatia's natural gas needs are met from domestic production. The only Croatian natural gas producer is the Croatian Oil and Gas Company, INA dd (INA), a partially state-owned and privatised company. INA exploits gas fields in northern Croatia and, in a joint venture with Italian company ENI, in the Adriatic Sea. The remaining natural gas has been exclusively imported from Russia for the past 30 years, and more recently imports have begun from ENI. The only Croatian natural gas importer (and possibly wholesale market supplier) is Prirodni plin d.o.o., a company owned by INA. Croatia has only one natural gas storage facility, owned and operated by Podzemno skladište plina d.o.o., a company in the ownership of Plinacro d.o.o. (Plinacro), a state-owned company.

The transportation network is owned and operated by the transportation system operator (TSO), Plinacro. There are 36 different companies registered for the distribution of gas, mostly operating at

the local level. Due to market liberalisation, there are 56 registered gas suppliers and traders.

Owing to the lack of an LNG terminal, Croatia presently has no LNG market. However, the government is planning to build an LNG terminal on the island of Krk with a capacity of 5 billion m³ per year. The national electricity company, HEP dd, and Plinacro, incorporated LNG Croatia Ltd, whose sole purpose is to build and manage the LNG terminal.

- 2 What percentage of the country's energy needs is met directly or indirectly with natural gas and LNG? What percentage of the country's natural gas needs is met through domestic production and imported production?

Natural gas meets approximately 25 per cent of Croatia's energy needs. It is expected that the demand for natural gas will continue to increase by approximately 4.2 per cent annually. Domestic production amounts to more than 50 per cent of total natural gas consumption. The remainder is imported.

Government policy

- 3 What is the government's policy for the domestic natural gas sector and which bodies set it?

The general guidelines of Croatia's government policy regarding the natural gas sector are set out in the Strategy of Energy Development (Official Gazette No. 130/09) (the Strategy). In the Strategy, Croatia acknowledges the importance of natural gas in energy consumption and encourages its use. Croatia's aim is to achieve a higher level of security of natural gas supply by diversifying supply sources, especially bearing in mind that in the future, domestic production will decrease due to depleted reservoirs. Therefore, the construction of LNG storage capacities on the island of Krk, the finalisation of construction of the Croatian transportation network, connection to international pipelines and the construction of natural gas storages are recognised as strategic national projects.

The bodies responsible for implementing relevant legislation and government policy are the Ministry of Economy, the Croatian Energy Regulatory Agency (HERA) and the Croatian Energy Market Operator (HROTE).

In 2013, the government intensified its exploration and exploitation of oil and gas in the Croatian Adriatic Sea. On 30 July 2014, the Hydrocarbons Exploration and Exploitation Act (Official Gazette 94/13, 14/14) (the HEEA) entered into force. It introduces a possibility of production sharing or royalty contracts after a unified unique tendering procedure licence regime for exploration with an automatic concession regime for the exploitation of oil and gas in Croatia (subject to commercial discovery). In addition, by the end of the first quarter of 2014, two-dimensional seismic shooting was completed along most of the Adriatic. Promising data, which will be used for tenders expected to take place in mid 2014, should result in significant exploitation of gas in the Adriatic in future years.

Croatia is also intensifying the realisation of the Ionian Adriatic (IAP) Pipeline as a connection to the Trans Adriatic Pipeline, which is receiving more support from the EU as an alternative gas supply route from Azerbaijan.

Through combining the three projects (the LNG terminal, the IAP Pipeline and the exploitation of gas in the Adriatic), the government is planning to make Croatia a regional energy hub.

The HEEA does not make a distinction between conventional and unconventional oil and gas exploration or exploitation.

Regulation of natural gas production

- 4 What is the ownership and organisational structure for production of natural gas (other than LNG)? How does the government derive value from natural gas production?

According to article 5/1 of the HEEA, all hydrocarbons, including natural gas, are in the Republic of Croatia's ownership. The HEEA prescribes a unique tendering procedure ensuring that the successful bidder will be awarded an exploration licence that, subject to commercial discovery, automatically awards concession rights.

The licensee concludes a contract with the government. According to the HEEA (article 21/1), there are three types of agreement:

- exploration and division of the exploitation of the hydrocarbons (a production sharing agreement);
- exploration and exploitation with fees and tax payment (a royalty payment agreement); and
- a combination of the two.

Draft agreements are included in the tender documentation. Rules and regulations with regard to fees and taxes (ie, royalties) are yet to be enacted. The agreement must be signed within three months of announcement of the tender winner, but not more than six months after the issue of the licence.

- 5 Describe the statutory and regulatory framework and any relevant authorisations applicable to natural gas exploration and production.

Natural gas exploration and exploitation is regulated by the HEEA, while implementing regulations are still to be passed. The Mining Act (Official Gazette 56/13, 14/14) prescribes all rights and obligations pertaining to the mining aspect of the exploration and exploitation of oil and gas.

The new framework extracts hydrocarbons from other mineral rights. Neither mineral rights nor exploration and exploitation of hydrocarbons can be leased.

According to article 5/1 of the HEEA, all hydrocarbons, including natural gas, are in the state's ownership. The exploration licence is issued for a maximum period of five years. On request of the investor, the exploration period may be extended for two further terms of six months, if good reasons exist.

Exploitation of a natural gas may be performed based on the automatic right of concession arising from the licence. The maximum exploitation and exploration period is 30 years (five years for exploration and 25 years for exploitation; if the exploration period is extended, the exploitation period is shortened). The natural gas may be exploited only within the extraction field specified in the licence or concession. The parties to the contract will negotiate the exploitation rate and programme. All activities in connection with the exploration and exploitation of oil and gas are monitored by the Inspectorate of the Ministry of Economy, Department of Mining.

Regulatory policies governing the production, transmission, distribution and supply of natural gas are governed by the Ministry of Economy, and to certain extent by HERA. The Ministry prepares the strategy and legislation with respect to the natural gas sector, and implements laws enacted by parliament. The Ministry also enacts

different by-laws and regulations. HERA is partially a regulatory and partially a supervisory body. As a regulatory body, HERA, inter alia, grants different licences for the performance of energy activities, participates in natural gas policy design, organises and carries out tender procedures, and settles disputes related to the carrying out of regulated energy activities.

Foreign companies must have a corporate presence with a registration for mining activities before the Ministry of Economy, Department of Mining or, in the case of companies with an EU seat, registration with the respective domicile authority.

The Ministry, as a government body, is independent of the natural gas business and industry. However, in the process of the preparation of natural gas legislation, it follows and accepts proposals from natural gas specialists. HERA is a non-profit institution, and independent from the natural gas industry, since members of the HERA management board (and members of their family) cannot be owners of any company in the energy business or perform any other activity in that sector that may lead to a conflict of interest. They are also independent of government officials, since they cannot be members of parliament, of local representative bodies or of the political parties' main bodies.

HERA's decisions are either final or appealable to the Ministry, depending on the matter in question. If HERA's decision is final, it can only be challenged before the Croatian Administrative Court. The Ministry's appellate decision can also be challenged before the Croatian Administrative Court.

The Ministry's decisions are usually final. If the decision is final, it can only be challenged before the Croatian Administrative Court. Exceptionally, if it is provided by the law, the Ministry's decisions may be appealed back to the same Ministry, but also to the Appeal Senate as the second-instance authority.

Regulation of natural gas pipeline transportation and storage

- 6 Describe in general the ownership of natural gas pipeline transportation, and storage infrastructure.

The natural gas pipeline, which is approximately 2,516km long, is owned and operated by Plinacro, which is the TSO licensed with HERA for a 15-year period starting from 10 November 2009.

Croatia's single natural gas storage facility, Okoli, with a capacity of 550 million m³, is owned and operated by the storage system operator (SSO) Podzemno skladište plina d.o.o. (licensed with HERA for gas storage until 20 January 2019), a company owned by Plinacro.

Therefore, both transportation and storage infrastructure are directly or indirectly owned and operated by the state.

- 7 Describe the statutory and regulatory framework and any relevant authorisations applicable to the construction, ownership, operation and interconnection of natural gas transportation pipelines, and storage.

The construction of transportation pipelines and storage facilities requires building, environmental, safety, administrative and other licences in accordance with general planning and building regulations.

The operation and interconnection to transportation pipelines and storage are regulated by the GMA, the Gas Market Regulation (Official Gazette No. 126/10, 128/11, 88/12, 29/13), the General Conditions for Supply of Natural Gas (Official Gazette No. 43/09, 87/12) (the General Conditions), and other regulations and ordinances.

The national transmission networks are owned and operated by Plinacro (see question 6). Since natural gas transportation is a regulated, non-market activity, Plinacro has the sole power to construct and operate transportation networks. In accordance with the old GMA, Plinacro passed a five-year transportation system

development plan, approved by the Ministry of Economy. Plinacro was granted a licence for natural gas transportation activities, issued by HERA.

Croatia's single natural gas storage facility Okoli is owned and operated by the national SSO, Podzemno skladiste plina d.o.o. (Plinacro is the sole shareholder of Podzemno skladiste plina d.o.o.), which holds HERA's licence for the operation of storage facilities (see question 6). The storage of natural gas is also a regulated, non-market activity and, therefore Podzemno skladiste plina d.o.o. has the sole power to construct and operate storage facilities. The SSO's rights and duties correspond with that of the TSOs (see above).

Regulatory policies governing the transportation, distribution and supply of natural gas are governed by the Ministry of Economy, and to a certain extent by HERA (see question 5).

8 How does a company obtain the land rights to construct a natural gas transportation or storage facility?

Only Plinacro, as TSO, can obtain land rights to construct a natural gas transportation facility (see question 7). For construction of a pipeline over privately owned land, the land should be expropriated in an administrative proceeding and expropriation compensation paid to the owner, all in accordance with the Croatian Expropriation Act (Official Gazette 9/94, 35/94, 112/00, 114/01, 79/06, 45/11, 34/12). The expropriation can be made through transfer of ownership, or through servitude rights or temporary lease on the land in favour of Plinacro.

The same procedure is applied for construction of a storage facility.

9 How is access to the natural gas transportation system and storage facilities arranged? How are tolls and tariffs established?

Croatia has a regulated third-party access regime for its transportation and storage system based on non-discriminatory, objective conditions and published tariff methodology. The GMA provides that the TSO and SSO should reserve system capacities based on received requests for connection to the transportation system, and provide access of the free capacities to:

- the natural gas producer;
- the system operator; and
- consumers, to the extent of their own consumption.

The TSO and respective third party enter into a contract on connection to the transportation system, while the SSO concludes a contract on storage of natural gas.

Access may be refused only in cases explicitly provided by the GMA (eg, in cases of lack of capacity). The refusal should be explained in writing, and the third party has the right of appeal against the transportation or SSO's decision to HERA.

Transportation services rates are based on the methodology for determining tariff items for gas transmission (Official Gazette No. 85/13). The transportation tariff methodology was rendered by HERA, and outlines the principles and methods for calculating rates for natural gas transportation. It adopts an entry–exit tariff system.

Storage services rate are also based on the HERA's methodology for determining tariffs for the storage of gas (yet to be passed).

In both cases, the tariff rates are set by HERA.

10 Can customers, other natural gas suppliers or an authority require a pipeline or storage facilities owner or operator to expand its facilities to accommodate new customers? If so, who bears the costs of interconnection or expansion?

Customers can demand the pipeline or storage facility operator to expand its facilities only if they have previously been rejected from accessing the system due to lack of capacity. The pipeline or storage

operator must, within reasonable time, make necessary alterations to its facilities to accommodate new customers but only if such alterations are economically feasible or if the customer bears the total cost of interconnection or expansion (article 75/6 of the GMA).

The Ministry of Economy and the local administration are responsible for planning the expansion of transportation and storage facilities. The TSO and SSO are due to pass a 10-year development plan, which should be approved by the Ministry (see question 7). By approving or disapproving an operator's development plans, the government obliges the TSO or SSO to expand its facilities, if it finds this to be necessary.

11 Describe any statutory and regulatory requirements applicable to the processing of natural gas to extract liquids and to prepare it for pipeline transportation.

No such specific statutory or regulatory requirements exist. The processing of natural gas purely to extract liquids is not considered a separate energy activity and does not require an energy licence or consent.

The General Conditions specify the standard quality of gas that should be supplied to consumers. Therefore, the processing of gas should result in a standard quality gas, which should be then transported through pipelines to consumers.

12 Describe the contractual regime for transportation and storage.

The types of contracts that may be concluded on the gas market and its terms and conditions are outlined in the General Conditions. As for the transportation system, there are two types of contracts: the contract on connection to the transportation system and the contract on transport of gas.

The contract on connection to the transportation system is entered into between the TSO and natural gas producer, system operator or final customer, or all of these. The TSO is obliged to connect the respective user to the system and the user is obliged to pay the connection fee. This contract must contain, inter alia, information on technical specifications for connection, connection fee, payment terms, deadline for connection to the system and connection place and time.

In the contract on transport of gas, the TSO is obliged to provide transport services to the gas supplier or trader within its reserved capacities, while the system user is obliged to pay a regulated fee. The contract must contain gas transport conditions, tariff and place and time of delivery of gas. The contract on transport of gas may be concluded for a year (until 1 September of the current year for the following year), a month (until the last day of the current month for the next month) or for a single day.

The contract on storage of natural gas is concluded between the SSO and the gas supplier, trader or transport system operator for the storage of gas. The contract should contain, inter alia, storage conditions, tariff, payment terms, time of delivery of gas into the transportation system, working volume and reserved capacity. The periods for which the contract may be concluded are the same as for the contract on transport of gas.

All above-mentioned contracts are standard contracts published on respective operators' websites.

Regulation of natural gas distribution

13 Describe in general the ownership of natural gas distribution networks.

Natural gas distribution networks are operated by distribution system operators (DSOs), which hold respective distribution energy licences from HERA and concessions for natural gas distribution granted by local municipalities. There are 36 registered DSOs in Croatia, most of which are completely or partially owned by local

municipalities. DSOs operate more than 14,500km of Croatia's distribution network. The distribution network is mainly owned by the municipalities and operated by DSOs on the basis of concessions. A part of the distribution network is privately owned by DSOs.

14 Describe the statutory and regulatory structure and authorisations required to operate a distribution network. To what extent are gas distribution utilities subject to public service obligations?

Natural gas distribution is regulated by the GMA, the Gas Market Regulation, the methodology for determining tariff items for the gas transmission (Official Gazette No. 104/13), and other regulations and ordinances.

According to the GMA, distribution of natural gas is a regulated, non-market activity performed as public service obligation. DSOs must provide equal, non-discriminatory access to the distribution network to all potential customers.

A DSO must hold a distribution energy licence from HERA and a concession for natural gas distribution granted by the local municipality. The concession is granted for at least 20 years and up to a maximum of 30 years in a public tender process.

15 How is access to the natural gas distribution grid organised?

Describe any regulation of the prices for distribution services. In which circumstances can a rate or term of service be changed?

Access to the natural gas distribution grid is organised in the same manner as access to the transportation and storage network (see question 9).

The distribution services rates are set in the Tariff System for Natural Gas Distribution, Rates Excluded (Official Gazette No. 34/07, 47/07, 44/10, 13/12, 49/12 and 99/12) rendered by HERA. It adopts an incentive method and corresponding cap method (article 4/1). The rates are set by HERA.

General terms of service are provided by relevant legislation – the GMA, the Gas Market Regulation, the General Conditions and the Grid Distribution Code – and may be changed only by amendments to the aforementioned legislation. Distribution contracts should be standard contracts, and therefore not subject to negotiations between the DSO and the consumer.

16 May the regulator require a distributor to expand its system to accommodate new customers? May the regulator require the distributor to limit service to existing customers so that new customers can be served?

See question 10 in respect of distributors expanding their systems to accommodate new customers.

There is no provision that would allow the regulator to require the DSO to limit service to existing customers so that new customers can be served.

17 Describe the contractual regime in relation to natural gas distribution.

For connection to the distribution system, a contract on connection to the distribution system (article 23 of the General Terms) is concluded between the DSO and the natural gas producer or final customer, or both. By this contract, the DSO undertakes the obligation to connect the respective user to the system, and the user is due to pay the connection fee. This contract must contain, inter alia, information on technical specifications for connection, connection fee, payment terms, deadline for connection to the system and connection place and time.

Contracts on connection to the distribution system should be standard and are published on the DSO's websites.

Regulation of natural gas sales and trading

18 What is the ownership and organisational structure for the supply and trading of natural gas?

Supply of gas to eligible customers and natural gas trading are market activities, while supply of gas to tariff customers is a regulated, non-market activity. Since 1 August 2008, all consumers became eligible customers, meaning that each customer may freely choose its natural gas supplier and change it free of charge (see question 1).

Croatia has 56 registered natural gas suppliers, most of which are universal service providers. The GMA should have allowed free choice by the suppliers; however, final amendments to the GMA will leave the possibility for the government to regulate this activity, making the elected entity the only wholesale market supplier for an additional three years (see question 1).

The majority of suppliers perform their activity in a certain region, while there are only a few larger utilities that supply customers in several regions (eg, HEP-Plin d.o.o., Prirodni plin d.o.o.). The suppliers are usually completely or partially owned by local municipalities.

Only a few foreign-owned companies are registered as natural gas traders in Croatia.

19 To what extent are natural gas supply and trading activities subject to government oversight?

Supply and natural gas trading are also energy activities subject to licensing by HERA. HERA, inter alia:

- ensures that all licensing requirements are fulfilled;
- ensures the quality of suppliers' service;
- ensures application of regulated tariffs;
- initiates misdemeanour proceedings in cases of non-compliance with the legal provisions; and
- issues opinions to the Ministry of Economy on general terms and conditions for the supply of customers.

HERA has the power to withdraw suppliers' or traders' licences in cases prescribed by the law.

Local municipalities and the Ministry of Economy are responsible for monitoring security of supply. Therefore, the supplier and trader are obligated to provide the Ministry with a yearly report on security of supply and provide other relevant statistical data.

General terms and conditions on supply of natural gas set by the respective supplier must be in accordance with the General Conditions.

20 How are physical and financial trades of natural gas typically completed?

Physical trades of natural gas are typically completed by individual delivery agreements concluded between the natural gas supplier, gas trader or gas producer and the other gas supplier or gas trader. According to the GMA and General Conditions, such contract must contain, inter alia, conditions of supply, price of delivered gas, amount and quality of delivered gas, payment terms, deadline for delivery and delivery place and time.

Prirodni plin d.o.o., as Croatia's largest natural gas supplier (see question 18), publishes its standard contractual terms for supply of natural gas on its website.

Financial trades of natural gas are not yet common in Croatia.

21 Must wholesale and retail buyers of natural gas purchase a bundled product from a single provider? If not, describe the range of services and products that customers can procure from competing providers.

No; there is no single provider of natural gas commodity and transmission or distribution services. Wholesale and retail buyers can freely purchase gas from different suppliers. Transportation services

are provided by the TSO, Plinacro, which has a legal obligation to provide non-discriminatory access to potential consumers (see question 9). Distribution capacities can be booked from different DSOs (see questions 14 and 15).

Trading with natural gas on the Croatian market is still in its infancy; therefore, the range of services and number of providers are limited.

Regulation of LNG

22 What is the ownership and organisational structure for LNG, including liquefaction and export facilities and receiving and regasification facilities?

Currently, LNG is not used in Croatia, and Croatia does not have liquefaction and export facilities or receiving and regasification facilities. Construction of an LNG terminal is recognised by the government as a strategic energy project. The national electricity company HEP dd and Plinacro have founded LNG Croatia d.o.o. with the purpose of building an LNG terminal on the island of Krk. The capacity of the terminal should be 5 billion m³ per year.

23 Describe the regulatory framework and any relevant authorisations required to build and operate LNG facilities.

Building of LNG facilities requires construction, environmental, safety, administrative and other licences in accordance with general planning and building regulations.

According to the GMA and Energy Licence Regulation, the operator must hold an energy licence issued by HERA for the operation of the LNG terminal.

24 Describe any regulation of the prices and terms of service in the LNG sector.

According to article 6 of the GMA, operation of the LNG terminal is a regulated activity, performed as public service obligation. The prices of service should therefore also be regulated by the relevant tariff methodology rendered by HERA; however, no such methodology has been passed as yet.

Regarding the terms of service, the GMA and General Conditions apply, meaning that the principles of the non-discriminatory third-party access regime are also relevant to the LNG sector.

Mergers and competition

25 Which government body may prevent or punish anti-competitive or manipulative practices in the natural gas sector?

The Croatian Competition Agency (the CCA) and Croatian Financial Services Supervisory Agency (HANFA) are responsible for acquisition and merger control in general, including in the natural gas sector. HERA controls the eligibility of parties participating in acquisitions, and applies a system of measures for protection of energy market competition.

HERA, in establishing and implementing the system of regulation of activities that are performed as public services, is obliged to apply measures for protection of basic rights of consumers in accordance with special laws. HERA is also obliged to apply the rules and a system of measures for the protection of market competition with regard to natural gas matters. It is authorised to supervise, inter alia, the degree of transparency and market competition and, where necessary, demand implementation of specific measures.

26 What substantive standards does that government body apply to determine whether conduct is anti-competitive or manipulative?

There are no specific criteria that apply to the energy sector that define anti-competitive or manipulative conduct. Regulated energy

activities are regulated on the principles of transparency, objectivity and non-discrimination, while market energy activities are regulated according to the principles of market competition. Therefore, the Competition Act (Official Gazette No. 79/09, 80/13) applies to energy market activities. The Competition Act prohibits entry into agreements that directly or indirectly fix purchase or selling prices or any other trading conditions, limit or control the market, share markets or sources of supply, etc. Furthermore, abuse of a dominant market position is also prohibited, as well as concentration of undertakings.

27 What authority does the government body have to preclude or remedy anti-competitive or manipulative practices?

HERA has the power to withdraw licences for the performance of energy activities, for instance, if the supplier does not apply the prices set by the methodology. HERA also issues other legally binding orders in accordance with the law.

The GMA prescribes fines for any misconduct, including anti-competitive or manipulative practices (for instance, if the TSO or DSO unlawfully deny access to the grid). The fines are imposed by the Ministry of Economy, Inspectorate Department. In the case of recidivism, energy undertakings may be suspended from carrying out licensed activities for up to a year.

According to competition law, the CCA issues legally binding orders by which it prohibits anti-competitive conduct. Finally, the CCA is authorised to instigate misdemeanour court proceedings in cases of violation of the Competition Act.

HANFA is also authorised to instigate misdemeanour court proceedings in cases of takeover irregularities.

28 Does any government body have authority to approve or disapprove mergers or other changes in control over businesses in the sector or acquisition of production, transportation or distribution assets?

CCA and HANFA are the respective authorities in the acquisition and merger control sector (see question 25).

Procedures, criteria and time limits for review of transfers of control are set out in the Competition Act and the Act on the Takeover of Joint Stock Companies (Official Gazette No. 109/07, 36/09, 108/12, 148/13).

Pursuant to the Competition Act, the review procedure is performed by the CCA. The procedure is initiated ex officio or upon the request of any party having a legal or economic interest.

Upon carrying out the procedure provided for by the Competition Act, the CCA issues a decision by which it either approves or refuses a transaction. The CCA will block a transaction in the case of a prohibited concentration, referring to those undertakings that can significantly influence the prevention, restriction or distortion of competition. The CCA should issue a decree within three to eight months from the day that the proceeding was initiated, depending on the type and complexity of the case in hand.

HANFA supervises the takeover of joint stock companies and the application of the Act on the Takeover of Joint Stock Companies. If takeover irregularities are identified, HANFA may impose measures provided for by law, such as declaring the takeover bid invalid or instructing revision, supplementation or withdrawal of the takeover bid.

29 In the purchase of a regulated gas utility, are there any restrictions on the inclusion of the purchase cost in the price of services?

Prices for the regulated gas activities are set by the methodology rendered by HERA (see questions 9 and 15). The purchase cost of a regulated gas utility is not included in the formula for calculation of a regulated service price as per the tariff methodology currently in force.

30 Are there any restrictions on the acquisition of shares in gas utilities? Do any corporate governance regulations or rules regarding the transfer of assets apply to gas utilities?

There are no special legislative restrictions on the acquisition of shares in gas utilities, but general merger control principles apply (see questions 25, 26 and 28). However, the TSO, Plinacro, and the SSO, Podzemno skladište plina d.o.o., are directly or indirectly state-owned companies, and the acquisition of shares would be possible only in the privatisation process approved by the government, under the relevant privatisation legislation. No such legislation has been adopted so far.

No specific corporate governance regulations or rules regarding the transfer of assets of gas utilities apply. However, in the case of a transfer of assets essential for performing the licensed activity, the gas utility may lose its energy licence from HERA. The new owner of assets may obtain the same licence from HERA if it fulfils other requirements (personnel, financial, technical, etc) set by the Energy Licence Regulation.

International

31 Are there any special requirements or limitations on foreign companies acquiring interests in any part of the natural gas sector?

There are no special requirements or limitations in the natural gas sector regarding acquisitions by foreign companies, but general merger and acquisition laws apply (see questions 25 to 30).

32 To what extent is regulatory policy affected by treaties or other multinational agreements?

According to the Croatian Constitution, international agreements take priority over domestic laws and form an integral part of Croatian legislation. Since 2006, Croatia has been a party to the Energy Community Treaty (Official Gazette International Treaties No. 6/06), and Croatia ratified the Kyoto Protocol in 2007. Due to its accession into the EU, Croatia has adopted *acquis communautaire* in the energy sector, including the natural gas sector, and implemented relevant EU directives into its legislation.

33 What rules apply to cross-border sales or deliveries of natural gas?

There are no specific rules that apply to cross-border sales and deliveries of natural gas. Undertakings having natural gas supply and trade energy licence are also eligible for cross-border supply.

Update and trends

Exploration of the Adriatic will be the most crucial element for the legislative and economic development of the Croatian gas market. The Ministry of Economy has announced that the exploitation of oil and gas in the Adriatic is one of the most important projects during this term. Spectrum SA has been chosen to carry out the two-dimensional seismic shooting.

On 3 January 2014, the Ministry of Economy announced IHS Global Limited, UK (IHS) as the winner of the tender for 'Consulting services in the preparation and implementation of the public tender for the exploration and exploitation of hydrocarbons in the Adriatic shelf'. IHS will:

- prepare economic scenarios based on assessed resources, contract models and fiscal conditions, and their effects on the Croatian economy;
- prepare the recommended contract model and fiscal parameters;
- prepare the informative documentation for investors (including an assessment of the technical possibilities, environmental protection, conditions and limitations for the exploration);
- prepare the tendering documentation;
- assist in the evaluation of the bid offers and investor choice; and
- assist in negotiations with the interested investors.

At a London conference hosted by Spectrum SA, the Ministry revealed that leading international oil and gas companies have concluded pre-contracts for the purchase of the seismic data for the Croatian Adriatic.

Tender announcements for the exploration and exploitation of oil and gas in the Adriatic sea are expected mid-2014.

In Croatia, there is only one importer of natural gas – Prirodni plin d.o.o. – and no natural gas is exported.

Transactions between affiliates

34 What restrictions exist on transactions between a natural gas utility and its affiliates?

The GMA has adopted a legal unbundling concept, meaning that transportation, distribution and the SSO must be independent from one another and from other gas market activities. Cross-subsidisation of companies engaged in regulated activities and those engaged in market activities, and cross-subsidisation of activities within the same company, is prohibited by the GMA. However, this does not affect the parent company's ability to approve the annual financial plans of its affiliates and to set the limits of their possible indebtedness, but it cannot give instructions relating to their everyday operation.

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General non-discrimination principles and a prohibition of abuse of dominant position set out by relevant competition law provisions also refer to transactions between parent companies and their affiliates in natural gas sector.

35 Who enforces the affiliate restrictions and what are the sanctions for non-compliance?

HERA supervises whether the principles of legal unbundling have been followed and may demand their implementation.

CCA oversees enforcement of competition law provisions (see questions 25 to 27).

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