

International Comparative Legal Guides



Oil & Gas Regulation 2020

A practical cross-border insight into oil and gas regulation work

15th Edition

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Andrian Guzun

1 Overview of Natural Gas Sector

1.1 A brief outline of your jurisdiction'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 supply of natural gas of the Republic of Moldova mainly results from imports: 1,129.7 million cubic metres in 2018; and 608.5 million cubic metres in the first half of 2019, 100% of the natural gas volumes being acquired from P.A.O. Gazprom (*Gazprom*) by its 50% subsidiary Moldovagaz S.A. (*Moldovagaz*) (<http://www.anre.md/storage/upload/administration/reports/151/Raport%20anual%20de%20activitate%20%20%20ANRE%202018.pdf> and <http://www.anre.md/storage/upload/administration/reports/338/Sectorul%20gaze%20naturale,%20seme-strul%20I%202019.pdf>). The Activity Report of the National Agency for Energy Regulation of the Republic of Moldova (*ANRE*) states that the main consumers of natural gas in 2018 were combined heat and power (*CHP*) entities (37.9% in 2018 and 38.7% in the first half of 2019), household customers (32.4% in 2018 and 36.2% in the first half of 2019) and public institutions (4.8% in 2018 and 5.1% in the first half of 2019). The Republic of Moldova did not export natural gas in 2018 and in the first half of 2019.

Moldovagaz is the main importer of natural gas and has a primary role in the natural gas market of the Republic of Moldova, being:

- a natural gas supplier, which fulfils public service obligations regarding the supply of natural gas to final consumers and which has legal relationships with other natural gas market participants (transmission and distributors) in order to ensure reliable gas natural consumers;
- a party to the contract for the supply of natural gas in the Republic of Moldova concluded with Gazprom; and
- the founder of other companies in the natural gas sector providing services on the natural gas market, including distribution system operators (*DSO*) and the main Moldovan transmission services operator (*TSO*) – Moldovatrangaz SRL (operating a transmission network including magistral pipelines with a total length of 656.25 km and pipeline branches with a total length of 903.423 km).

The Government seems to be aware of the fact that, in order to ensure a secured supply of natural gas, certain measures, including diversification of the supply sources (e.g. by identification of local sources), implementation of LNG-related projects and building natural gas storage facilities, need to be taken (the Government Decision no. 102 dated 5 February 2013 “On the Energy Strategy of the Republic of Moldova until 2030”).

One of the diversification measures currently implemented by the Moldovan authorities is the construction of the Ungheni-Chisinau and Ungheni-Balti natural gas transmission pipelines, as an extension of the Iasi (Romania)-Ungheni (Moldova) gas interconnector project. For the purpose of operation of such transmission infrastructure, a new TSO was established in 2014 – I.S. Vestmoldtransgaz (*VMTG*), a state enterprise acquired in 2018 by the Romanian TSO Transgaz S.A. The representatives of Transgaz S.A. declared their intention to start exports of natural gas to Moldova in the first half of 2020.

The new gas transmission pipeline will lead to the sustainable development of the Moldovan gas sector, since the prevailing number of natural gas consumers are located in Chisinau. In addition, the future application of the pipeline will lead to market safety for natural gas in the entire region.

Moldova has been a contracting party to the Energy Community Treaty since 1 May 2010 and, therefore, has a continuous obligation to implement the energy *acquis* in force. In this respect, the Parliament adopted Law no. 108 on natural gas dated 27 May 2017 (*Natural Gas Law*). The aim of the Natural Gas Law is to establish a general framework for the organisation and regulation of the natural gas sector in order to ensure the efficient functioning and monitoring of the gas market. In order to implement the provisions of the Natural Gas Law, ANRE made available for public consultations the draft Natural Gas Networks Code (<http://www.anre.md/consultari-publice-3-27>). The Code is to regulate the modalities of natural gas pipeline interconnections and intends to ensure efficient activity on natural gas market in conditions of existence of two big market players – Moldovagaz and Transgaz.

We are not aware of any current LNG-related projects in place in Moldova; LNG is currently not traded in Moldova.

1.2 To what extent are your jurisdiction's energy requirements met using natural gas (including LNG)?

In 2019, the total gross consumption of energy in the Republic of Moldova is expected to constitute 3.075 Mtoe, out of which the consumption of natural gas is to constitute 0.804 Mtoe (*cca.* 26.2%), coal – 0.102 Mtoe (*cca.* 3.3%), petroleum products – 1 Mtoe (*cca.* 32.5%), bio-fuel and waste – 0.770 Mtoe (*cca.* 27.7%), and electric energy – 0.316 Mtoe (9.7%) (https://mei.gov.md/sites/default/files/document/attachments/prognoza_be_a_rep_ublicii_moldova_a._2018-2019.pdf).

The share of natural gas in the gross consumption of energy is continuously decreasing (*cca.* 36.5% in 2010, *cca.* 31.5% in 2013, *cca.* 28.8% in 2017 and *cca.* 26.2% expected in 2019, https://mei.gov.md/sites/default/files/document/attachments/prognoza_be_a_republicii_moldova_a._2018-2019.pdf).

1.3 To what extent are your jurisdiction's natural gas requirements met through domestic natural gas production?

In 2018, Moldova's natural gas requirements were met through imports exclusively. The entire volume of natural gas (i.e. 1,129.7 million cubic metres) was acquired from Gazprom (<http://www.anre.md/storage/upload/administration/reports/151/Raport%20anual%20de%20activitate%20%20%20ANRE%202018.pdf>). We foresee a similar situation for 2019. As regards 2020, however, we understand that plans exist to supply natural gas to the Republic of Moldova *via* the Iasi (Romania) – Ungheni (the Republic of Moldova) interconnector.

The natural gas internal resources of the Republic of Moldova are rather limited. Nevertheless, on 30 December 2016, the Government issued a decision on the approval of the results of a tender on the selection of the entity Frontera Resources International LLC to perform works of geological exploration of hydrocarbons on the territory of the Republic of Moldova. Under Government Decisions no. 895 dated 20 July 2016 (*Government Decision 895/2016*) and no. 1439 dated 30 December 2016, works of exploration and potential exploitation (extraction) of hydrocarbons on the territory of the Republic of Moldova are conceded to the investor on the basis of a concession agreement; the state is entitled to receive a share from the volume of production/sales. No results of geological explorations were made public.

1.4 To what extent is your jurisdiction's natural gas production exported (pipeline or LNG)?

The Republic of Moldova did not export natural gas in 2018. Also, no exports of natural gas are expected in 2019.

2 Overview of Oil Sector

2.1 Please provide a brief outline of your jurisdiction's oil sector.

The Republic of Moldova imports 99.5% of all consumed petroleum products (*PP*). The import of *PP* into the Republic of Moldova constituted *cca.* 829,403 tons in 2018 (a 2.5% increase if compared with 2017) and *cca.* 377,727 tons in the first half of 2019. The import structure is, as follows:

- diesel – 70.9% (in 2018) and 71.15% (in the first half of 2019);
- gasoline – 20.4% (in 2018) and 21.2% (in the first half of 2019); and
- liquefied petroleum gas (*LPG*) – 8.7% (in 2018) and 7.6% (in the first half of 2019).

The main partner supplier of the petroleum products continues to be Romania, responsible for 98.35% of imported gasoline in 2018 and 100% in the first half of 2019, and for diesel – 82.47% in 2018 and 86.75% in the first half of 2019 (<http://www.anre.md/storage/upload/administration/reports/151/Raport%20anual%20de%20activitate%20%20%20ANRE%202018.pdf> and <http://www.anre.md/storage/upload/administration/reports/344/Raport%20privind%20rezultatul%20>

https://mei.gov.md/sites/default/files/document/attachments/prognoza_be_a_republicii_moldova_a._2018-2019.pdf). The major import role of Romania is explained by the small distance between the two countries, as well as by the fact that several groups of companies which are active on the Moldovan petroleum products markets have their refineries in Romania. As regards the *LPG* sector, the main supplier continues to be the Russian Federation with a rate of 61.27% in 2018 and of 43.25% in the first half of 2019, followed by Romania and Kazakhstan.

2.2 To what extent are your jurisdiction's energy requirements met using oil?

The gross consumption of petroleum products in 2019 is expected to constitute 1 Mtoe, i.e. *cca.* 32.5% of the total Moldovan gross consumption of energy of 3.075 Mtoe (https://mei.gov.md/sites/default/files/document/attachments/prognoza_be_a_republicii_moldova_a._2018-2019.pdf).

Both the volume of petroleum products consumed in the Republic of Moldova and their share in the total gross consumption of energy have been continuously increasing since 2010 (0.776 Mtoe (*cca.* 29.4%) in 2010, 0.785 Mtoe (*cca.* 29.7%) in 2013, 0.922 Mtoe (*cca.* 32.4%) in 2017 and 1 Mtoe (*cca.* 32.5%) expected in 2019).

2.3 To what extent are your jurisdiction's oil requirements met through domestic oil production?

The oil reserves of the Republic of Moldova are considered to be insignificant. They are located in the southern part of the country, being extracted in Cahul county. The local production of petroleum products constitutes *cca.* 0.005 Mtoe (i.e. 0.5% of the gross consumption of petroleum products).

2.4 To what extent is your jurisdiction's oil production exported?

Preliminary data shows that in 2018 the export of oil products by Moldovan entities constituted *cca.* 0.015 Mtoe, the same volume being forecasted for 2019 (https://mec.gov.md/sites/default/files/document/attachments/prognoza_be_a_republicii_moldova_a._2018-2019.pdf).

3 Development of Oil and Natural Gas

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

The main Moldovan normative acts in the domain of exploration and extraction of natural resources are:

- Natural Resources Code no. 3 dated 2 February 2009 [Ro. *Codul Subsolului*] (*CS*);
- Government Decision no. 895 dated 20 July 2016 on concession of works of geological exploration of hydrocarbons on the territory of the Republic of Moldova, with subsequent exploitation (*Government Decision 895/2016*);

- Law no. 121 dated 5 July 2018 on concessions of works and services, [Ro. *Legea cu privire la concesiunile de lucrări și concesiunile de servicii*] (*Concession Law*); and
- Law no. 179 dated 10 July 2008 on Public-Private Partnerships [Ro. *Legea cu privire la parteneriatul public-privat*] (*PPP Law*).

Certain rules on the production of natural gas are stipulated in the Natural Gas Law.

The fundamental principle concerning the exploration and extraction of natural resources (including oil and natural gas) on the territory of the Republic of Moldova is that all the subsoil resources constitute state public property (Article 6(1) CS). Such subsoil resources cannot be alienated, but only transferred for use (Article 6(2) CS).

A right of use over a sector of subsoil (including for exploration and extraction of oil and/or natural gas) appears on the basis of (i) approval of Government of the Republic of Moldova (*GoM*), issued on the basis of the results of the tender for the exploration and extraction of mineral resources (Article 16(1) CS), and (ii) a concession agreement (Article 18 CS).

Generally, a concession agreement is to contain provisions on:

- the type and term of use;
- the limits of the attributed subsoil sector;
- the conditions of attribution of the subsoil sector;
- the volumes of geological analysis work;
- the implementation of subsoil and environment protection measures;
- the forecasted volume of extraction of subsoil resources;
- the forecasted deadline for putting the objectives into operation; and
- the forecasted deadline for land remediation (Article 19(1) CS).

Such list is not exhaustive, since certain types of use of natural resources may require insertion of additional provisions.

The concession agreement is concluded between the user (investor) and the Ministry of Agriculture, Regional Development and Environment (*MARDE*) and contains the conditions of use of the conceded subsoil sectors (Articles 18(4), 19 CS).

Additionally, it should be considered that the activity of production of natural gas requires a licence issued by ANRE (Article 12(2) Natural Gas Law). Moreover, the concrete circumstances of the project may require additional permits (e.g. rules on the authorisation of the construction works, rules on the industrial security of the dangerous industrial objects, etc.).

3.2 How are the State's mineral rights to develop oil and 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?

Pursuant to the PPP Law, a concession agreement is a form of public-private partnership. Granting of the right to exploration and extraction of natural resources implies the following general steps (Article 25 PPP Law):

- (a) identification of the object of the public-private partnership;
- (b) elaboration of a feasibility study (on the technical and economic justification of the public-private partnership project);
- (c) approval of the feasibility study by the Public Property Agency;
- (d) approval of the goals of the public-private partnership;

- (e) preparation by the public partner of the documents necessary for the tender (including description of the object, conditions of the private-public partnership, a template public-private partnership agreement);
- (f) appointment of the commission on selection of the private partner;
- (g) publication of the information about the intended public-private partnership. Such information is valid for not less than 30 calendar days and not more than 90 calendar days, as of the date of publication of such information with the Official Gazette of the Republic of Moldova (Article 26 PPP Law);
- (h) publication of the website of the Public Property Agency of the documents for the tender on selection of the private partner;
- (i) receipt and examination of the offers;
- (j) adoption of the decision on appointment of the private partner. The results of the tender are approved by means of a decision of the GoM; and
- (k) conclusion of the concession agreement.

On 20 July 2016, the GoM issued Government Decision 895/2016 approving the conditions on concession of the works of geological exploration of hydrocarbons on the territory of the Republic of Moldova. The intention of the Moldovan authorities was to grant the right to carry out prospecting and evaluation of natural resources of national importance (in particular, oil and natural gas) on the territory of the Republic of Moldova for a period of five years, with their subsequent exploitation for a 40-year term, with the possibility of a five-year extension (Section 3 Government Decision 895/2016). On 30 December 2016, the Government issued a decision on the approval of the results of a tender on the selection of the entity Frontera Resources International LLC to perform works of geological exploration of hydrocarbons on the territory of the Republic of Moldova.

3.3 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).

For the purpose of conclusion of the concession agreement, the potential investor is to provide information on its financial means, special technological equipment and staff, which are necessary for the respective type of works on the subsoil sector.

Further, the investor's activity requires a list of permits, issuable by Moldovan authorities. A general (non-exhaustive) list is provided below:

- (a) licence for natural gas production (issued by ANRE, validity term: 25 years, state fee – MDL (Moldovan Lei) 3,250 (*cca.* EUR 167) (Article 12 Law no. 165 dated 22 July 2011 on regulation of the authorisation of entrepreneur activities (*Law 165/2011*));
- (b) act on confirmation of geological limits [Ro. *perimetrul geologic*] (issued by Agency for Geology and Natural Resources, validity term: five years, state fee – free of charge) (Article 22 CS, p.32 Title III, Annex 1 Law 160/2011);
- (c) state ecology expertise (issued by Public Services Agency, validity term: period of project implementation, state fee – free of charge) (point 63 Title II, Annex 1 Law 160/2011);
- (d) environment permit (resulting from the environmental impact assessment, issued by Agency for Environment, validity term: four years, state fee – free of charge) (Article 56 CS, point 59 Title II, Annex 1 Law 160/2011);

- (e) gas emissions authorisation (issued by Environment Agency, validity term: one to five years, state fee – MDL 500–4,000 (*ava.* EUR 25–205) (point 60 Title II, Annex 1 Law 160/2011);
- (f) positive confirmation of expertise in the domain of industrial security (issuing entity: an authorised expertise entity, validity term: five years, state fee – depends on the complexity of the activity, equipment, etc.) (Article 9 Law 116/2012, p. 1 Title III, Annex I Law 165/2011);
- (g) construction authorisation(s) for works of public utility of national interest (issuing authority: Ministry of Economy and Infrastructure of the Republic of Moldova, validity term: for the period of construction works, state fee – free of charge) (Chapter V Law no. 163 dated 9 July 2010 on authorisation of execution of construction works, point 7 Title II, Annex I Law 165/2011);
- (h) certificate on protection of works of public utility and national interests (issued by: Ministry of Economy and Infrastructure of the Republic of Moldova, validity term: period of construction works withholding, state fee – based on the activity and equipment complexity) (Article 9 Law no. 116 dated 18 May 2012 on industrial security of dangerous industrial objects, point 1 Title III, Annex I Law 160/2011); and
- (i) sanitary authorisation for the functioning of the facility (issuing authority: National Agency Public Health Agency, validity term: five years, state fee – free of charge) (Article 23² Law no. 10 dated 3 February 2009 on state supervision of public health, p. 29 Title III, Annex I Law 165/2011).

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

Moldovan legislation neither contains a prohibition on the incorporation by the Moldovan state (as the owner of the subsoil resources), through the Moldovan authorities, of entities exploring and/or extracting oil and natural gas or on the participation of the state with the share capital of such entities, nor provides for a mandatory participation of the state with the share capital of the entities exploring and/or extracting oil and natural gas.

Article 127(4) Constitution of the Republic of Moldova indicates that the resources in any kind of subsoil are the exclusive object of the public property. The same legal regime is provided by Article 6 CS – all subsoil resources on the territory of the Republic of Moldova are owned by the state; the subsoil sectors cannot be alienated, but only transferred into use.

In this context, the GoM issued Government Decision 895/2016 approving the conditions for concession for works of geological exploration of hydrocarbons on the territory of the Republic of Moldova. The intention of the Moldovan authorities was to grant the right to carry out prospecting and evaluation of natural resources of national importance (in particular, oil and natural gas) on the territory of the Republic of Moldova for a period of five years, with their subsequent exploitation for a 40-year term, with the possibility of a five-year extension (Section 3 Government Decision 895/2016).

From the currently available information, the GoM issued on 30 December 2016, a decision on the approval of the results of a tender on selection of the entity Frontera Resources International LLC to perform works on geological exploration of hydrocarbons on the territory of the Republic of Moldova. We are, however, unaware of any participation of the state

with the entity Frontera Resources International LLC or with another entity performing works of exploration and potential exploitation (extraction) of hydrocarbons on the territory of the Republic of Moldova.

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

The exercise of certain activities in connection with oil and natural gas development (production) is done against payment of consideration. In particular, the following types of fees/taxes can be distinguished:

- (a) statutory taxes for certain activities (resources rents (Article 70 CS), provided by the Tax Code of the Republic of Moldova):
 - 2% of the contractual value of the works – for exploration activities (Article 309 Tax Code);
 - 5% of the contractual value of the works – for geological exploration activities (Article 313 Tax Code); and
 - 20% of the value of the extracted resources – for extraction of natural gas and oil (Annex 2, Title VIII Tax Code);
- (b) compensation of the state's costs in connection with the exploration activity (Article 71 CS); and
- (c) fees in connection with the issuance of certain types of permits (licences, authorisations, certificates).

3.6 Are there any restrictions on the export of production?

The Moldovan legislation does not provide for specific restrictions upon the export of oil (petroleum products) or natural gas, except for crisis periods or emergency situations (in respect of natural gas).

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

Payments and money transfers concluded between residents and non-residents are generally performed without any restrictions. In this respect, Law no. 62 dated 21 March 2008 on Foreign Exchange Regulation (*Law 62/2008*) provides for a list of transactions qualified as *current monetary (currency) transactions*, including the transactions performed within the international trade with goods with an initial repayment for one-year term (Article 5 (2) Law 62/2008).

However, one needs to take into consideration that Law no. 1466 dated 29 January 1998 on the Regulation of the Repatriation of Money, Goods and Services Derived from Foreign Economic Transactions (*Law 1466/1998*) provides for the obligation of the local (Moldovan) entities to register with their local bank account the financial means derived from the export of goods abroad within three years, calculated as of the date of shipment of the respective goods (Article 3(1a) Law 1466/1998). There is a risk of application of a fine (of 0.05% of the amount of non-repatriated funds for each calendar day of delay (but not more than 18% of the amount of non-repatriated funds)) (Article 5(3), (4) Law 1466/1998) in case of the local entity's failure to repatriate the financial means derived from the export of goods abroad within the indicated statutory period. Payment of the fines does not exempt the entity from its obligation to repatriate either the financial means or the goods (Article 5(5) Law 1466/1998).

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

Any total or partial transfer of the conceded rights to a third party is prohibited, except in the case of reorganisation of the entity (Article 30 CS). Neither of the permits (licences, certificates, authorisations), issued for exploration and exploitation (extraction) of natural resources (including natural gas and oil), can be transferred to a third party.

3.9 Are participants obliged to provide any security or guarantees in relation to oil and natural gas development?

Both the tender conditions and the concession agreement may contain an obligation for the investor to provide guarantee(s) in connection with its offer (bid) and/or for the execution of its rights under the respective agreement.

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

The PPP Law admits the right of the investor (private partner) to pledge the object of the public-private partnership (including rights to explore and extract natural resources (including natural gas and oil)), under the condition of procuring of the public partner (state authority)'s consent (Article 34(3) PPP Law). On the other side, the CS prohibits the transfer to a third party of the conceded goods (rights or interests). In other words, the pledge of certain rights (having as potential effect, the transfer of such rights to a third party) is also prohibited.

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

A general (non-exhaustive) list of permits (issuable by the Moldovan authorities for the investor's activity on the subsoil sector) is provided under question 3.3 above.

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

The CS provides for the obligation of the investor to liquidate or conserve the mining workings, facilities and structures at the expiry of the agreement, when finalising the exploitation of the resources or at the early termination of the subsoil use (Article 67 CS). Such investor needs to ensure that the mining and drillings works will cause no harm to peoples' life and health, environment, buildings and constructions, or possibility of use of the subsoil sector for other activities. The liquidation or conservation of the mining workings is to be conducted in accordance with the technical projects coordinated with the Agency for Geology and Natural Resources. In addition, the beneficiary of the subsoil sector (investor) is to create a fund for the liquidation of such mining workings, facilities and structures, as well

as for the rehabilitation of the degraded plots of land. The size of such fund depends on the concrete project (Article 68 CS).

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

The Natural Gas Law is the primary legislation regulating the activity of natural gas storage. Such activity is performed on basis of a licence, issued by ANRE for a period of 25 years (Article 12(2)d), (9) Natural Gas Law). The number of such licences is not limited. Pursuant to the currently available information, there is no natural gas storage in the Republic of Moldova. Consequently, there are no licences issued by ANRE for the activity of storage of natural gas.

The natural gas storage operator (SO), which is a part of a vertically integrated undertaking (VIU), is to be independent from other activities which are not connected with the activity of natural gas storage (Article 52(1) Natural Gas Law). To ensure the independence of the SO, the following minimum requirements are to be met:

- (a) management separation, meaning that those persons responsible for the management of the SO may not participate in company structures of the VIU responsible, directly or indirectly, for the day-to-day operation of the production and supply of natural gas;
- (b) appropriate measures must be taken to ensure that the professional interests of persons responsible for the management of the SO are considered, in a manner that ensures that they can act independently; and
- (c) the SO must have effective decision-making rights, independent from other parts of the VIU, with respect to assets necessary to operate, maintain or develop the natural gas storage (Article 52(2) Natural Gas Law).

Access to the storage and pipeline storage is to be granted to all the existing and potential users in a transparent, objective and non-discriminatory manner. In order to ensure the supply of natural gas to consumers and organise access to ancillary services, access to the gas storage facilities is granted based on the tariffs established in accordance with the methodology approved by ANRE. The SO has the obligation to publish on its electronic page the information required for ensuring efficient access to the gas storage operated by such SO (Article 54 Natural Gas Law).

3.14 Are there any laws or regulations that deal specifically with the exploration and production of unconventional oil and gas resources? If so, what are their key features?

On 26 February 2016, the Parliament of the Republic of Moldova adopted Law no. 10 on the promotion of the use of energy from renewable sources (*Law 10/2016*). It should be taken into consideration that the activity of production of bio-gas (which is to be supplied into the natural gas networks) and bio-fuel (which is to be acquired by the main petroleum products importers) are subject to licensing (Article 21(1) Law 10/2016).

In this context, the activity of production of bio-gas is performed on the basis of the licence for production of natural gas (Article 21(5) Law 10/2016) issued by ANRE for a term of 25 years (Article 12(2)a Natural Gas Law).

The activity of production of biofuel is produced on the basis of a licence issued by ANRE for a term of 25 years (Article 21(9) Law 10/2016) to persons which are:

- registered in the Republic of Moldova and not involved in an insolvency process; and

- presenting the financial report for the previous year or a bank account excerpt (for persons initiating the activity) (Article 21(6) Law 10/2016).

The producers of bio-gas (which is to be supplied into the natural gas networks) and of bio-fuel (which is to be acquired by the main petroleum products importers) need to comply with certain quality standards (Article 27(2) Law 10/2016). Producers of bio-gas (which is to be supplied into the natural gas networks) have non-discriminatory and regulated access to the natural gas networks (Article 28(2) Law 10/2016).

On the other side, the importers of main petroleum products have the obligation to acquire, on an annual basis, quantities of bio-fuel to be used in the main oil products mix, in order to reach the minimum annual level set by ANRE (Article 29(3) Law 10/2016).

4 Import / Export of Natural Gas (including LNG)

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

The Natural Gas Law assumes the natural gas market in Moldova to be open. All transactions regarding the sale/purchase of natural gas and other ancillary products are executed on the natural gas market, which consists of the natural gas wholesale market and the natural gas retail market (Article 92(1) Natural Gas Law).

Transactions regarding the sale/purchase of natural gas, including transactions of import or export, transactions of the sale/purchase of interconnection capacities, with participation of the producers, TSOs, DSOs, SOs and suppliers, are concluded on the natural gas wholesale market. On the wholesale market, the sale-purchase transactions are made on the basis of bilateral agreements, taking into consideration supply and demand, as a result of competitive mechanisms or negotiations (Article 95(1) Natural Gas Law). The sale-purchase transactions on the wholesale natural gas market are based on bilateral agreements, taking into consideration the supply and demand, as a result of competitive mechanisms or negotiations. All the natural gas market participants have the right to engage in bilateral transactions, including bilateral transactions of export or import of natural gas. The transactions on the sale-purchase of natural gas within the natural gas wholesale market shall be conducted in a transparent, public and non-discriminatory manner (Article 95(2), (3) Natural Gas Law).

5 Import / Export of Oil

5.1 Outline any regulatory requirements, or specific terms, limitations or rules applying in respect of cross-border sales or deliveries of oil and oil products.

The Law of the Republic of Moldova no. 461 dated 30 July 2001 on the Petroleum Products Market [Ro. *Legea privind piața produselor petroliere*] (*Petroleum Products Market Law*) is the main normative act regulating activity on the PP markets in the Republic of Moldova, including the activity of import of PP. Such activity is conducted on basis of a licence issued by ANRE for a period of five years (Article 7(2) Petroleum Products Market Law).

To ensure the energy security of the country, certain special requirements are imposed on importers of PP:

- availability of gasoline/diesel storage with a capacity of at least 5,000 cubic metres and of capital of at least MDL 8 million (*ca.* EUR 410,000) – for importers of gasoline and/or diesel; and
- availability of LPG storage with a capacity of at least 150 cubic metres – for importers of LPG (Article 14(1) Petroleum Products Market Law).

Farmers are exempt (in certain conditions) from the requirement to hold a licence for the import of PP. They are, however, required to request an authorisation from ANRE (Article 19 Petroleum Products Market Law), issuable in case the respective farmers cumulatively fulfil the following conditions:

- (a) the exemption applies to diesel only;
- (b) ownership or lease of agricultural land;
- (c) ownership or lease of diesel storage; and
- (d) ownership or lease of agricultural equipment functioning on the basis of diesel (Article 20(2) Petroleum Products Market Law).

The diesel import authorisation is to indicate the quantity of diesel to be imported (on the basis of the area of agricultural land owned and/or leased) (Article 20(3) Petroleum Products Market Law).

The export (re-export) of PP can be performed only by importers of petroleum products (i.e. by entities holding licences for the import of petroleum products) and on the basis of an authorisation granted by ANRE (Article 21 Petroleum Products Market Law).

Pursuant to Government Decision no. 476 dated 17 April 2002 on the method of transportation of imported petroleum products, the import of PP by road is made through the Moldovan customs points Leuseni–Albita, Tudora–Starokazacie, Otaci–Moghiliov–Podolski and Pervomaisk–Cuciurgan, whereas the import of PP by railroad is made through the Moldovan customs points Ocnita, Cuciurgan, Etulia, Giurgiulesti, Ungheni.

6 Transportation

6.1 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 of the Republic of Moldova no. 592 dated 26 September 1995 on the magistral pipeline transmission [Ro. *Legea privind transportul prin conducte magistrale*] (*Law 592/1995*) stipulates that the transmission pipelines may be owned by private entities or by the state. However, the plots of land, on which such pipelines are located, are owned by the state and transferred into the use of the private entities (TSOs) (Article 5(1) Law 592/1995). There are no specific limitations when it comes to financing of construction of transmission pipelines, including those of state importance. The sources of financing can be either the state budget, the funds of the pipelines transport operators, bank credits and loans.

Generally, agricultural plots of land with low quality [Ro. *bonitate scazuta*] or plots of land which are not suitable for agricultural purposes are used for the construction of transmission pipelines. Agricultural plots of land of high quality are used for the construction of transmission pipelines in exceptional cases and only on the basis of a decision of the GoM (Article 5(3) Law 592/1995). The expropriation of the plots of land (if needed) and the change of the destination of such plots of land which are to be used for the construction of transmission pipelines are also performed on the basis of decisions of the GoM.

Apart from those indicated above, the Natural Gas Law contains certain conditions for the exercising by the system operators (including of the TSOs) of the right of use over the (privately owned) plots of land for execution of works which are necessary, *inter alia*, for the construction, rehabilitation and modernisation of the network (e.g. consent, prior notification, obligations) (Chapter X Natural Gas Law).

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

Law 592/1995 indicates that the construction of transmission pipelines is to be conducted by specialised construction organisations. Such organisations are liable for the compliance of the construction works with the applicable legislation, for damages caused during the construction works (including compensation for the rehabilitation of the land), and are obliged to correct any defects detected on the constructed pipeline during the first three years of exploitation (Article 11 Law 592/1995).

Given the impact and particular circumstances of such projects, certain permits (certificates, authorisations) are required (including the conclusion of the state ecology expertise: the environment permit (as a result of the environmental impact assessment); the build-up certificate for projection of public utility works of national interest; the construction authorisation(s); the positive conclusion of the expertise in the domain of industrial security; and the sanitary authorisation.

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

The plots of land on which such pipelines are located are owned by the state and transferred into the use of private entities (TSOs). The Natural Gas Law indicates that such transfer into use (for the purpose of construction, maintenance, exploitation, rehabilitation and modernisation of the natural gas transmission and distribution networks) is performed on a free-of-charge basis (Article 74(1) Natural Gas Law). The (privately owned) plots of land needed for the construction of transmission pipelines can be expropriated by the GoM if the respective construction works are considered of public utility [Ro. *cauza de utilitate publica*] and under the condition of payment to the expropriated owner of a compensation (Article 78 Natural Gas Law). Pursuant to the provisions of Law no. 488 dated 8 July 1999 on expropriation for public utility causes [Ro. *Legea expropriării pentru cauza de utilitate publica*], the cases of national public utility are declared by the Parliament of the Republic of Moldova.

Also, the Natural Gas Law provides the right of access to system operators (including the TSOs) through privately owned plots of land for execution of works, which are necessary, *inter alia*, for the construction, rehabilitation and modernisation of the network (consent, prior notification and obligations).

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

A TSO is obliged to grant to existing/potential users access to its natural gas transmission network in a transparent, objective and non-discriminatory manner, on the basis of an agreement

and at tariffs established in accordance with the methodology approved by ANRE (Article 55(1) Natural Gas Law).

To manage the access of third parties to the gas transmission system, the TSO must keep an electronic register indicating information with regard to each access point, including the identity of the third party, the existing supplier, the address of the consumption point, the contracted flow, the connection point, the delimitation point, the pressure in the delimitation point and the characteristics of the measuring equipment (Article 55(5) Natural Gas Law).

The TSO has the obligation to publish on its electronic page the information necessary for ensuring efficient access to the gas transmission network operated by such TSO (Article 55(7) Natural Gas Law).

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

Pursuant to the Natural Gas Law, in order to execute its duties, including with regard to the cross-border transmission of natural gas, the TSO is to cooperate with the TSOs from the neighbouring countries, in compliance with the agreements concluded with such operators (Article 55(4) Natural Gas Law).

Also, the individuals/legal entities are generally entitled to request the connection of their use/production/storage facility to the transmission network of the TSO performing the activity within the territory indicated in its licence.

It also needs to be taken into consideration that ANRE has made available for public consultation the draft Natural Gas Networks Code (<http://www.anre.md/consultari-publice-3-27>). The Code regulates the modalities of natural gas pipeline interconnections and intends to ensure efficient activity on the natural gas market with the existence of two big market players – Moldovagaz and Transgaz.

6.6 Outline any third-party access regime/rights in respect of oil and natural gas transportation and associated infrastructure. For example, can the regulator or a new customer wishing to transport oil or natural gas compel or require the operator/owner of an oil or 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?

A TSO is obliged to grant to existing/potential users access to the natural gas transmission network in a transparent, objective and non-discriminatory manner. Access to the natural gas transmission network can, however, be refused if there is a lack of system capacity, as well as when granting access would impede the TSO in fulfilling its public service obligations, or where serious economic and financial difficulties are incurred due to take-or-pay obligations (Article 58 Natural Gas Law).

A TSO refusing access to the system due to insufficient capacity must take the necessary measures to ensure the access of the third party to the system, under the condition that such measures are economically justifiable, or when the third party requesting the access is ready to bear the costs in connection with such necessary measures (Article 58(4) Natural Gas Law).

The TSO must inform ANRE on each case of congestion and refusal of access to the natural gas transmission system, as well as on the measures that are intended to be taken to resolve such situations (Article 58(6) Natural Gas Law).

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

Pursuant to provisions of the Natural Gas Law, the access of third parties to the natural gas transmission system is performed based on an agreement and at tariffs established in accordance with the methodology approved by ANRE. However, we understand that the terms which are not expressly regulated by ANRE may be negotiated between parties.

As regards transportation of PP, we are not aware of any impediments in negotiation of the transportation conditions and costs/tariffs.

7 Gas Transmission / Distribution

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

Natural gas transmission and distribution activities can be conducted exclusively on basis of licences issued by ANRE. At the moment, there are 25 holders of licences for distribution of natural gas and two holders of licences for transmission of natural gas.

To obtain a licence, the applicants must be registered in the Republic of Moldova, present their financial statements for the previous year or a bank account excerpt (if a newly incorporated entity), have qualified personnel for conducting the activity and necessary technical resources for conducting the respective activity (transmission network, distribution network) (Article 14(2), (3) Natural Gas Law). The examination of the declarations on the issuance of a licence in the natural gas sector takes 15 calendar days.

In order to ensure a general view over the Moldovan natural gas legislation, please note that the Third Gas Directive (*Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC*) has been fully transposed into the Natural Gas Law. However, TSOs are currently exempted from complying with the TSO unbundling rules of the Third Gas Directive (until 1 January 2020). From a mere legal point of view, the TSOs, therefore, need to comply with the Second Gas Directive (*Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC*) only transposed into Article 24 Natural Gas Law (providing for ownership unbundling).

In light of the above, ANRE has the right to refuse the issuance of the licence for the transmission of natural gas if the TSO is not certified. A request for certification is filed by the TSO with ANRE provided the operator fulfils the independence and unbundling requirements. Within four months, after submission of the request, ANRE must adopt a decision on the provisory certification of the TSO. The decision on provisory certification is notified to the Energy Community Secretariat (*EnCS*) within five business days of the date of adoption. The *EnCS* issues its conclusion on the compliance of the TSO with the certification requirements within four months of the date of notification. ANRE's decision on the certification of the TSO (taking into consideration the conclusion of the *EnCS*) is taken within two months. The decision and the conclusion of the *EnCS* are published in the Official Gazette of Moldova, as well as on the official websites of ANRE and the Energy

Community. If the decision of ANRE differs from the conclusion of the *EnCS*, both are published, along with the reasons for the final decision (Article 36 Natural Gas Law).

Unbundling obligations are also imposed to DSOs (Article 44 Natural Gas Law): if the DSO is a part of a VIU, such DSO is to be independent from other activities which are not related to natural gas distribution, at least from functional, decision-making and organisational points of view.

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

The licence for natural gas distribution is the main permissive act required for activity performance. The licence is issued for a period of 25 years (Article 12 Natural Gas Law).

Depending on the peculiarities of each particular case, other permits may be required (e.g. the conclusion of the state ecology expertise, environment permit, urbanism certificates, construction authorisations, positive conclusions of the expertise in the domain of industrial security, sanitary authorisations for the functioning of the facility, etc.).

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

A DSO is obliged to grant to existing/potential users access to the natural gas distribution network in a transparent, objective and non-discriminatory manner, on the basis of an agreement and at tariffs established in accordance with the methodology approved by ANRE (Article 55(1), (2) Natural Gas Law). The DSO has the obligation to publish on its electronic page the information necessary for ensuring efficient access to the gas distribution network operated by such DSO. In order to manage the access of third parties to the gas distribution system, the DSO is under obligation to keep an electronic register indicating the information with regard to each access point, including the identity of the third party, the existing supplier, the address of the consumption point, the contracted flow, the connection point, the delimitation point, the pressure in the delimitation point and the characteristics of the measure equipment (Article 55(5), (7) Natural Gas Law).

Access to the natural gas distribution network can be generally refused: (a) in case of absence of system capacity; (b) when granting access would prevent the DSO from executing its public service obligations; or (c) in case of serious economic and financial difficulties incurred due to the "take or pay" obligations (Article 58 Natural Gas Law). The DSO refusing access to the system due to absence of capacity is obliged to take the necessary measures to ensure the access of the third party to the system, under the condition (i) such measures are economically justifiable, or (ii) when the third party requesting access is ready to bear the costs in connection with such necessary measures (Article 58(4) Natural Gas Law).

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

As indicated under question 7.3 above, the DSO refusing access to the system due to absence of capacity is obliged to take the necessary measures to ensure the access of the third party to the system, under the condition (a) such measures are economically justifiable, or (b) when the third party requesting access is ready to bear the costs in connection with such necessary measures.

In connection with the refusal of the DSO (i.e. in granting access to its natural gas distribution network) the third parties may address a claim to ANRE, which is to check execution by the DSO of its obligations under the law; the DSO is to provide the information on the measures required for the development of the natural gas distribution network, as well as on the concrete terms for execution of such development.

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

The fees for the DSOs' services are approved by ANRE and published in the Official Gazette of the Republic of Moldova (Article 55(2) Natural Gas Law).

7.6 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)?

Except for the limitations provided by the unbundling rules, there are no limitations in relation to acquisition of an interest in natural gas utility, or the transfer of assets forming part of the distribution network.

8 Natural Gas Trading

8.1 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 free open natural gas market in Moldova is presumed under the Natural Gas Law. All the transactions on the sale-purchase of natural gas and of other ancillary products are executed on the natural gas market, which is constituted of the natural gas wholesale market and the natural gas retail market (Article 92(1) Natural Gas Law). Transactions on the sale-purchase of natural gas between the producers, TSOs, DSOs, SOs and suppliers, including import and export transactions and transactions on the sale-purchase of interconnection capacities, are executed on the natural gas wholesale market. On such market, the sale-purchase transactions are made based on bilateral agreements, taking into account the supply and demand, as a result of competitive mechanisms or of negotiations (Article 94(3) Natural Gas Law).

Transactions on the sale-purchase of natural gas with final consumers are concluded on the natural gas retail market, based on the agreements on the supply of natural gas [Ro. *contracte de furnizare a gazelor naturale*] between suppliers and final consumers. The supply of natural gas to household consumers and small enterprises is generally performed at regulated prices (Article 95 Natural Gas Law). According to the Annual Report of Moldovagaz for 2018 (https://www.moldovagaz.md/pic/uploaded/docs/sales_report_2018.pdf), household consumers (mostly natural persons) constitute 98.1% of the total number of consumers, consuming, however, only 32.4% of the supplied natural gas (ca. 346.40 million cubic metres). The share of non-domestic consumers (all other entities, including state authorities) in 2018 was 1.9% of the total number of consumers, with a total consumption of 723.1 million cubic metres (67.6% of the supplied volume of natural gas).

8.2 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?

We are unaware of any restrictions to the types of commodities that can be traded.

9 Liquefied Natural Gas

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

Currently there are no LNG facilities in Moldova.

9.2 What governmental authorisations are required to construct and operate LNG facilities?

While LNG is not expressly excluded from the scope of the Natural Gas Law, the latter does not contain LNG-specific norms.

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

No, there is no such particular regulation.

9.4 Outline any third-party access regime/rights in respect of LNG facilities.

As there are no LNG facilities in Moldova, access to LNG facilities is not particularly regulated.

10 Downstream Oil

10.1 Outline broadly the regulatory framework in relation to the downstream oil sector.

The main normative act in the domain of PP is the Petroleum Products Market Law. The aim of the Petroleum Products Market Law is to create an organisational, legal and economic framework to ensure Moldova's economic security and to regulate the import, transport, storage and sale of petroleum products as strategic products. In this context, a licensing regime is provided for the following activities:

- import and wholesale and/or retail of diesel and gasoline; and
- import and wholesale and/or retail of LPG (Article 12 Petroleum Products Market Law).

The licences are issued by ANRE for a period of five years (Article 12⁹ Law 160/2011). According to the data published by ANRE on its official website, 25 licences have been issued for the import and wholesale of diesel and gasoline, 10 licences for the import and wholesale of LPG, 91 licences for the retail of diesel and gasoline by means of fuel stations and 76 licences for the retail of LPG by means of fuel stations.

For additional information on the conditions for obtaining of PP licences, please see question 5.1 above.

10.2 Outline broadly the ownership, organisation and regulatory framework in relation to oil trading.

The wholesale of PP is performed at non-regulated prices, based on negotiated agreements.

As regards the retail of PP, until 2019 ANRE had the attribution to impose a maximum retail price, whereas currently the prices are set by the sellers on basis of the expenses related to the sale of the respective products, including an annual profitability level not exceeding 10% (Article 4(3) Petroleum Products Market Law).

11 Competition

11.1 Which governmental authority or authorities are responsible for the regulation of competition aspects, or anti-competitive practices, in the oil and natural gas sector?

ANRE has the general duty to create the necessary conditions for an effective competition on the natural gas market, including by promoting in its normative acts the principles of equity, transparency and non-discrimination. ANRE monitors the natural gas market and performs controls on the timely detection of the violations on the natural gas market.

Such attributions of ANRE, however, do not affect the competence of the Competition Council of the Republic of Moldova (CC) to ensure the application of the legislation on the protection of the competition in the territory of Moldova.

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

The Competition Law no. 183 dated 11 July 2012 (*Competition Act*) is the main normative act setting the legal framework for the protection of competition, including prevention of and counteraction to the anti-competitive practices and unfair competition, as well as on the implementation of economic concentrations.

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

Pursuant to provisions of the Competition Act, CC has the right to:

- (a) investigate the anti-competitive practices, unfair competition and other violations in the domain of competition, state aid and advertising;
- (b) ascertain violations of the legislation on the protection of competition, on state aid and on the advertising; and
- (c) impose interim measures regarding such violations as well as to apply sanctions.

11.4 Does the regulator (or any other Government authority) have the power to approve/disapprove mergers or other changes in control over businesses in the oil and 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?

CC is competent to: examine the notifications on economic concentrations [Ro. *concentrare economică*] filed by the concerned entities (phase I); initiate investigations, in case notified economic concentration is qualified as presenting doubts in respect of its compatibility with the competition environment (phase II); and issue decisions on the compatibility of

the economic concentration with the competition environment (Chapter IV Competition Act, Regulation no. 17 dated 30 August 2013 on economic concentrations).

The following types of economic concentrations are covered by the Competition Act:

- mergers between (two or more) previously independent undertakings, or certain parts of undertakings previously independent; or
- acquisition, by one or several: persons already controlling one or several undertakings; or undertakings, either by acquisition of shares or assets or on the basis of an agreement or by other means, of direct or indirect control over one or several undertakings or parts of thereof, including creation of a joint venture, which will fulfil durably all functions of an autonomous economic entity.

An economic concentration needs to be notified with the CC if the following thresholds are reached (based on the turnover in the previous financial year):

- (a) the combined turnover of undertakings concerned exceeded MDL 25 million (*cca.* EUR 1.28 million); and
- (b) at least two of the undertakings concerned had a total turnover exceeding MDL 10 million (*cca.* EUR 513,000) in the Republic of Moldova.

The local competition legislation applies equally to economic concentrations carried out by local and/or foreign entities. The notifying party may start pre-notification contacts with CC (the relevant information concerning the proposed merger shall be submitted at least three working days before the date of the meeting). Once CC considers that it has all data and documents enabling it to decide on the case, it will declare the notification effective. This is the date from which the term of 30 business days for issuing a decision starts running. Within such term of 30 business days, CC is to issue a decision:

- (i) declaring the merger compatible with the competition environment; or
- (ii) launching an investigation, if CC concludes that the merger raises serious doubts on the merger's compatibility with the competition environment.

In case the merger enters phase II, the overall duration of the assessment may take up to 120 business days.

12 Foreign Investment and International Obligations

12.1 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?

We are not aware of any special requirements or limitations on acquisition of interests in the natural gas sector by foreign companies. Generally, Moldovan legislation tends to grant free access to the natural gas market to all investors irrespectively of citizenship, domicile, residence, place of registration or activity, origin state of the investor or the investment (Article 6(1) Law no. 81 dated 18 March 2004 on investments in entrepreneurial activities).

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

The regulatory policy in respect of the oil and natural gas of the Republic of Moldova is especially influenced by the provisions

of the Treaty Establishing the Energy Community, dated 25 October 2005 (*the EC Treaty*). The Republic of Moldova is a member of the Energy Community as of 1 May 2010. By adopting the EC Treaty, the Republic of Moldova made legally binding commitments to adopt core European Union energy legislation, the so-called “*acquis communautaire*”.

With the adoption of the Natural Gas Law, the Republic of Moldova transposed the Third Energy Package. Numerous secondary legislative acts are yet to be adopted as a precondition for Moldova to implement the natural gas *acquis* in real terms.

13 Dispute Resolution

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

Pursuant to the Natural Gas Law, the disputes between the gas companies in connection with the Natural Gas Law may be examined by ANRE. ANRE is to issue a decision on the respective dispute within two months (extendable by a further two months), as of the date of filing by a gas company of the respective claim (Article 109(1) Natural Gas Law). Further, ANRE examines the disputes (including cross-border disputes) in connection with the refusal of a TSO to grant access to its transmission network (Article 109(2) Natural Gas Law). Also, ANRE examines, within 30 business days, (extendable by a further 30 business days) the disputes between the end consumers, system users and the gas companies, in connection with the provisions of the Natural Gas Law (Article 109(3) Natural Gas Law).

Apart from this, the Natural Gas Law stipulates that litigation between participants to the natural gas market is to be resolved in court (Article 111 Natural Gas Law). A court judgment can be appealed within 30 calendar days, as of the date of issuance of the judgment. Further, the decision of the Court of Appeal can be contested with the Supreme Court of Justice within two months, as of the date of communication of the integral decision of the Court of Appeal.

The Petroleum Products Market Law does not contain special (additional) procedures of resolution of disputes between the participants to the PP market. Hence, the litigations between the participants to the PP market are to be resolved either in court or by an arbitral tribunal, as indicated in the above paragraph.

13.2 Is your jurisdiction 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”)?

Yes, Moldova has ratified:

- (a) the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards – on 10 July 1998; and
- (b) the Convention on the Settlement of Investment Disputes between States and Nationals of Other States – on 5 May 2011.

13.3 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)?

No difficulty exists in litigating or enforcing judgments/awards against Moldovan public authorities (including any immunity). However, considering cost and time efficiency, companies often try to resolve disputes without seeking a judicial remedy.

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

We are unaware of any such cases occurring in Moldova.

14 Updates

14.1 Please provide, in no more than 300 words, a summary of any new cases, trends and developments in Oil and Gas Regulation Law in your jurisdiction.

The Natural Gas Law

The Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (the Third Gas Directive) has been fully transposed into the Natural Gas Law of Moldova. As of 1 January 2020, TSOs will have the obligation to comply with the TSO unbundling rules of the Third Gas Directive (i.e. to implement one of the three unbundling models – full ownership unbundling, independent transmission operator or independent system operator).

Secondary legislation in natural gas domain

On 8 July 2019, ANRE initiated a public consultancy in respect of the draft Natural Gas Networks Code, the approval of such Code being an obligation indicated in the Natural Gas Law. Also, certain other drafts of normative acts (to be approved in compliance with the Natural Gas Law) were made available for public consultancy: the Regulation on the quality of natural gas transmission and distribution services; the Methodology of calculation, approval and application of the tariffs for natural gas transmission services; and the Regulation on access natural gas transmission networks and congestions management.

Ungheni-Chisinau natural gas transmission pipeline

Eurotransgaz S.R.L. (a subsidiary of the Romanian entity Transgaz S.A.) has signed the contracts on acquisition of works related to construction of the Ungheni-Chisinau natural gas pipeline. The project involves construction of a 120 km natural gas-transmission pipeline (including afferent infrastructure). It is expected that by the end of 2019, the project will be 90% completed.

Draft law on creating and maintaining a minimum level of petroleum products stocks

The Moldovan authorities have drafted a law on creating and maintaining a minimum level of petroleum products stocks. The draft complies with Directive 2009/119/EC of 14 September 2009 imposing an obligation to maintain minimum stocks of crude oil and/or petroleum products. However, the timeline for the law's adoption is not clear. The draft law foresees its entry into force on 1 January 2021.

14.2 Please provide a brief comment on the impact (if any) of the “energy transition” on the oil and gas industry in your jurisdiction.

Law no. 10/2016, *inter alia*, sets a target to achieve a 17% share of energy from renewable sources in the gross final consumption of energy by 2020. Since bio-gas and bio-fuel are among the main renewable sources of energy (together with wind power and solar power), the transition from conventional sources to renewable sources will of course affect the oil and gas industry in the Republic of Moldova. However, we do not expect a very significant impact in the near future.

Currently, the Moldovan authorities appear to be more focused on diversification, since the diversification of natural gas suppliers has been always an issue for the Republic of Moldova (in 2018, 100% of the natural gas was acquired from Gazprom). Therefore, the Iasi-Ungheni-Chisinau project (Phase I and Phase II) can be regarded as an attempt to increase competitiveness in the sector, on one side, and to bring additional energy security, on the other side. Moreover, the launch of negotiations related to the construction of the Chisinau-Balti natural gas transmission pipeline (Phase III) is planned.



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