

International **Comparative** Legal Guides



Oil & Gas Regulation **2021**

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

16th Edition

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The Strategic Dilemma Faced by Oil and Gas in the Energy Transition
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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 Greek gas demand is fully covered by imported natural gas, which is injected into the National Natural Gas Transmission System ("NNGTS"), either through entry points from Bulgaria and Turkey or through the LNG Facility on Revithoussa Island. The Alexandroupolis LNG terminal, which is due to start commercial operation in 2021 or 2022, will comprise an offshore floating unit for the reception, storage and re-gasification of LNG and a transmission system shipping natural gas into the NNGTS, thus securing new natural gas quantities for the supply of the Greek and the regional Southeast European markets.

Natural gas transmission within the Greek territory is carried out through the NNGTS operated by the Hellenic Gas Transmission System Operator (DESFA) S.A. ("DESFA"), whereas distribution is conducted through the Natural Gas Distribution Network. Transmission systems and distribution networks can also be privately operated through an independent natural gas system licence ("INGS Licence") and a distribution network licence ("Distribution Network Licence"), respectively, both granted by the Greek Regulatory Authority for Energy ("RAE"). The most significant private projects in this area are the Trans Adriatic Pipeline AG ("TAP") which will transport natural gas from the Shah Deniz II field in Azerbaijan to Europe, of which construction is almost completed, and the Gas Interconnector Greece-Bulgaria ("IGB Pipeline"), which will provide a direct link between the national natural gas systems of Greece and Bulgaria, acting as a piece of strategic gas transportation infrastructure and therefore enhancing supply security to Greece. Further, the East Med pipeline, one of the most important export projects for Eastern Mediterranean gas, a region at the epicentre of energy developments because of recent years' discoveries, is a 1,900 km natural gas pipeline planned to cross the Israeli, Cypriot and Greek exclusive economic zones, reach Greece and from there connect to Otranto, Italy, through an underwater pipeline. The East Med pipeline project is expected to improve Europe's energy security by diversifying its routes and sources and providing direct interconnection to the

production fields. The project will also support the economic development of Greece and Cyprus by providing a stable market for gas exports.

In addition to the above developments, the Greek energy market is also undergoing restructuring changes through the privatisations programme implemented by the Hellenic Republic Asset Development Fund ("HRADF"), which has already completed a public tender for the part-privatisation of DESFA through the transfer of a 66% stake (31% owned by the HRADF and 35% owned by Hellenic Petroleum S.A. ("HELPE")) to SENFLUGA Energy Infrastructure Holdings S.A. and is currently conducting two public tenders for the privatisation of the Public Gas Corporation S.A. ("DEPA"), as the latter has been split into DEPA Infrastructure S.A. and DEPA Commercial S.A. (please refer to question 7.1 below).

A significant development in the country's energy field is the planned award to a private investor of the use, development and operation of an underground natural gas storage facility ("UGS") in the South Kavala natural gas reservoir. The HRADF has already launched an international tender for the concession of the almost depleted South Kavala offshore natural gas field, with the aim to complete the transaction in the first half of 2021.

Until recently, DEPA was the dominant player in the domestic natural gas market, holding a share of 96% or 42.7 million MWh in 2016. As of 2017, private companies dynamically entered the natural gas wholesale market with imports of natural gas (including LNG) currently approaching 30% of the total transactions. The opening of the wholesale market, together with the expansion of the sources of LNG origin, is set to enhance competitiveness among gas suppliers. In particular, DEPA's share in the wholesale market was decreased to approximately 33% in 2019 from 58% in 2018.

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

Natural gas is becoming an increasingly important fuel in the Greek energy mix, rising to a share of 36% in power generation in 2019 and 18% in the total primary energy supply ("TPES") in 2018, while its share is expected to grow in 2020.

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

Upstream gas operations are almost non-existent, as production of natural gas is negligibly small compared to the total consumption. Thus, the country's natural gas needs are mostly covered

by imported natural gas and LNG, primarily from Russia, while other large gas suppliers include Algeria and Turkey.

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

Currently, only a small share of the imported natural gas is exported through the NNGTS to Bulgaria and Turkey and further to third countries. However, through the implementation of significant infrastructure projects, Greece is expanding its role as a gas hub for the Southeast European gas market.

2 Overview of Oil Sector

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

Oil is the most important fuel in Greece's energy system. Although there is an increasing interest in upstream oil business, Greece currently has negligible domestic crude oil production and is largely dependent on imports, mainly from Iraq and Russia. Despite the poor oil production, the export of oil products has grown, mostly thanks to Greece's strong refinery capacity.

Following an unsuccessful tender for the sale of a majority stake (50.1%) in HELPE, which took place in April 2019, the HRADF was assigned with exploring all options available towards proceeding with the transaction, while the discussions between the Greek Government and the institutions are ongoing, aimed at determining the most suitable model for HELPE's restructuring. As no conclusion has been reached to date, a tender for the sale of a stake in HELPE does not seem to be on the Government's short-term agenda.

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

Crude oil accounts for approximately half of the country's TPES and over half of the total final consumption ("TFC").

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

Crude oil production in Greece, currently derived from two producing fields in the Northern Aegean Sea (Prinos) by a single oil producer, is insignificant compared to the domestic oil consumption. However, from 2012 onwards the Greek Government has been actively promoting upstream oil operations, as described in more detail below in question 3.1.

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

Domestically produced oil is only used for internal needs; however, the export of oil products has grown in the last few years, mostly as a result of the increased refining output of imported oil performed by four oil refineries.

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.

Law 2289/1995 (the "**Hydrocarbons Law**"), which transposed Directive 94/22/EC on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons, constitutes the main applicable legislation governing the development of hydrocarbons in Greece. The Hydrocarbons Law was substantially amended by Law 4001/2011 (the "**Energy Law**"), through which new practices were incorporated, aiming to create a more appealing investment climate and to attract serious investments in the oil sector, while most recently, Law 4685/2020 introduced certain new measures streamlining the licensing requirements for exploration and production activities.

The rights to prospecting, exploration and production of hydrocarbons that exist in onshore areas, sub-lake and submarine areas upon which the Greek State exercises sovereignty or sovereign rights in accordance with provisions of the United Nations Convention on the Law of the Sea are exclusively vested in the Greek State (Article 2, para. 1 of Hydrocarbons Law). Such rights are exercised by the Hellenic Hydrocarbon Resources Management S.A. ("**HHRM**"), a State-owned company that was established by virtue of Presidential Decree ("**PD**") 14/2012 (Government Gazette A' 21/2012) in implementation of Articles 145–153 of Energy Law, whereas certain powers are also exercised by the Ministry of Environment, Energy and Climate Change (the "**Minister**").

Over the past few years, the HHRM entered into numerous lease agreements for the development of hydrocarbons at several offshore and onshore blocks (Aitolokarnania, Ioannina, Arta-Preveza, North-West Peloponnese, Katakolo, Sea of Thrace, West Patraikos Gulf), while during the course of 2018–2019, lease agreements for the Ionian Sea, South West Crete and West Crete blocks were executed. The lease agreements for (a) South West Crete and West Crete, involving a consortium comprising Total, ExxonMobil and HELPE, (b) Ionian Sea involving Repsol and HELPE, and (c) Block 10 (west of the Peloponnese), awarded to HELPE, were ratified by the Greek Parliament in early October 2019.

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?

The Greek State's oil and natural gas development rights may be granted through: (a) a lease agreement ("**Lease Agreement**"); or (b) a production sharing agreement ("**Production Sharing Agreement**") (Article 2, para. 10 of Hydrocarbons Law). Based on Article 2, para. 14 of Hydrocarbons Law, the type of agreement to be concluded is determined on a case-by-case basis through a Ministerial Decision of the Minister; however, in practice, Lease Agreements are by far the most preferred contractual type. Both types of agreements are signed by the HHRM and the contractor and are subject to the Minister's prior approval.

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).

- (i) The right of prospecting for hydrocarbons is granted through a decision issued by the HHRM. More specifically, upon the Minister's approval, the HHRM issues an invitation for the submission of applications for prospecting for hydrocarbons, either following the submission of an application by any interested party or on the HHRM's initiative ("**Prospecting Invitation**"). Within the deadline set out in the Prospecting Invitation, the HHRM's prospecting licence is granted to one or more interested parties for a maximum duration of 18 months.
- (ii) The exploration and production rights are granted through one of the agreements referred to in our response to question 3.2, awarded either: (a) following an invitation to tender, approved by the Minister, and published in the Government Gazette and the Official European Union Journal; (b) following the application of an interested party for an area not included in a published invitation to tender; or (c) through an open invitation process ("**open door**") for the submission of interest if the area under discussion is available on a permanent basis or has been previously subjected to a tender that was not completed or has been abandoned by the contractor, if the latter has withdrawn from or terminated the respective agreement. The exploration right is granted for a maximum duration of seven years in the case of onshore areas and eight years in the case of offshore areas, starting in both cases from the date of execution of the relevant agreement with the Greek State, while the production stage has a maximum duration of 25 years from the date on which the contractor/lessee notifies the Greek State that it has tracked down a commercially exploitable crude oil deposit. Both stages may be extended under certain conditions provided by the same law.

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)?

In the case of Lease Agreements, the contractor is the exclusive owner of the extracted hydrocarbons as of the time of their extraction, while the Greek State acquires co-ownership of the extracted hydrocarbons only when the lease is paid in kind. On the other hand, in the Production Sharing Agreement, the State acquires ownership of the hydrocarbons as of their extraction, while the contractor acquires ownership solely of part of the extracted hydrocarbons, namely its agreed share, as well as a quantity equal to its expenses. Further, both the Lease Agreement and the Production Sharing Agreement may provide for the State's participation in a joint venture with the contractor, both in the exploration and the production stage.

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

The State's consideration for the oil and natural gas development rights comes in the form of royalties/lease fees under a Lease Agreement or a share in the extracted hydrocarbons under a Production Sharing Agreement. Such agreements may also provide for payment of a signature bonus, a production bonus, as well as an amount of compensation *per annum* determined by

reference to the surface area used during the exploration and production stage ("**surface fees**").

According to Article 8 of the Hydrocarbons Law, the contractor's income from the exploitation of hydrocarbons is subject to a special 20% income tax and a 5% regional tax, while being exempt from any further contributions, duties or other obligations.

3.6 Are there any restrictions on the export of production?

According to the Hydrocarbons Law, the contractor is free to trade the extracted hydrocarbons either in Greece or abroad by exporting them, unless otherwise stipulated in the respective agreement.

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

Foreign exchange and movement of capital in Greece are free, deriving from the country's capacity as a Member State of the European Union and the Eurozone. However, by virtue of the Legislative Act of 18.07.2015 (Government Gazette A' 84/2015), capital controls were imposed establishing limitations on cash withdrawals and transfer of capital from Greece as an emergency measure in the midst of the financial crisis. Within this framework, most payments abroad were restricted or permitted subject to a prior approval by a capital controls committee. Finally, after three years, pursuant to Article 86 of Law 4624/2019, the Greek capital controls have been lifted with effect from 1 September 2019; therefore, free transfer of funds has been completely restored.

Notwithstanding the above, Article 2 para. 4 of PD 127/1996 provides that the funds derived from the exploitation of hydrocarbons can be freely transferred abroad, serving as *lex specialis* aiming to safeguard hydrocarbons investments.

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

According to Article 7, para. 4 *et seq.* of the Hydrocarbons Law, the transfer by the contractor of its contractual rights and obligations to a third party is subject to the HHRM's and Minister's written consent. The State may refuse to grant its consent for national security reasons arising from the nationality and the financial and technical capability of the third party. A pre-emption right is granted to the State in the case of the substitution of the contractor or transfer of its shares, including in the case of the transfer of any affiliate company controlling the contractor. Further, provided that the contractor remains jointly liable with the transferee, the contractor may transfer its contractual rights and obligations to an affiliate enterprise, subject to the HHRM's and Minister's written consent. Subject to the State's pre-emption right, where the contractor is a joint venture, its members may transfer their rights and obligations to each other, upon written consent of the State and approval by the Minister.

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

The Prospecting Invitation specifies the amount of the performance guarantee to be provided by the interested party, which must be issued by a credit institution lawfully operating in the

European Union. Likewise, under the Lease Agreements, the contractor must provide a letter of guarantee issued by a first-class bank lawfully operating in the European Union, the form and terms of which are substantially stipulated in the Lease Agreement. The amount of such guarantee is determined on a case-by-case basis, in principle calculated on the basis of the minimum expenditure requirement and gradually reduced by the amounts of actual expenditure incurred by the contractor.

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?

Please refer to the restrictions described in our response to question 3.8 above.

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?

The most significant permits/licences that might be required for the exploration and production of oil or natural gas are the following:

- (a) an Environmental Terms Approval, incorporating forest intervention and antiquities authorisation (if applicable) issued by the Minister (Article 2 of Law 4014/2011 in combination with Ministerial Decision No. 37674/2016 (Government Gazette B' 2471/10.08.2016));
- (b) an installation and operation licence (Article 6, para. 1 (b) of the Hydrocarbons Law and Law 3982/2011);
- (c) a forest area designation decision issued by the competent Decentralised Administration (Law 998/1979 as amended in force); and
- (d) a Seveso III registration with the Minister (Joint Ministerial Decision 172058 (Government Gazette B' 17/2.2016)), transposing Directive 2012/18/EU.

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?

According to Article 5, paras 6 and 14 of the Hydrocarbons Law, the contractor is free to waive any prospecting, exploration and production rights granted thereto through an authorisation or a Lease Agreement/Production Sharing Agreement, respectively, under the specific terms of such agreement. Based on Article 6, para. 7 of the Hydrocarbons Law, any equipment and materials from any unusable facilities can be sold by the contractor, subject to a relevant notification to the HHRM. Further to the above, upon completion of the production phase, the contractor must return to the State any blocks used, free of any encumbrances, in a clean and environmentally safe condition (Article 10 of the Hydrocarbons Law).

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

Under Article 6, para. 1 (b) of the Hydrocarbons Law, the

contractor may construct hydrocarbon storage tanks, following an installation and operation permit issued by the Minister, which, in the case of offshore facilities, is subject to the prior approval of the Minister of National Defence and the Minister of Shipping and Island Policy. The above permit requires the prior issuance of an Environmental Terms Approval under Law 4014/2011, while for storage facilities falling under the provisions of Law 4495/2017, a building permit may also be required. A critical development expected to have a major impact on the future policy of the Greek Government is the escalating geopolitical instability in the wider region, with the Greek-Turkish tensions jeopardising the gas supply from Turkey (one of Greece's key gas import corridors), showcasing the need for sufficient gas storage facilities to safeguard security of supply.

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?

The Greek energy legislation does not include any specific provisions on unconventional oil and gas production. However, the Hydrocarbons Law was amended in 2011 and subsequently in 2020 to allow the conduct of non-exclusive seismic surveys, as part of the prospecting phase, thus incorporating a practice that has been successfully followed for more than a decade by other European oil-producing States.

3.15 What has been the impact, if any, of the "energy transition" on the oil and gas industry in your jurisdiction, and are there any policies or laws/regulations that require the oil and gas industry to decarbonise?

The decarbonisation of the national energy market was declared a top priority under Law 3851/2010, transposing Directive 2009/28/EU, which set the target of increasing the share of renewable energy sources ("RES") in gross final energy consumption to 20% and in gross energy consumption to 40% by 2020. Further, as part of its "Clean Energy for all Europeans" package, the European Commission has adopted the revised Renewable Energy Directive (EU) 2018/2001 for the period 2021–2030 ("RED II"), raising the overall EU target for RES consumption by 2030 to 32% and an energy efficiency target of at least 32.5%, with an upwards revision clause by 2023.

In Greece, as well as at the EU level, natural gas is considered to be the ideal way to ensure the gradual transition from fossil fuels to renewable energy sources. The pivotal role of natural gas in the operation of the energy market and, particularly, in building a low-carbon energy economy through state-of-the-art technologies, such as power-to-gas methods and fuel cells, is undisputable. According to recent studies, increasing the share of natural gas in the energy mix will lead to major savings in terms of energy investments, while gaseous fuel will remain the reliable backbone of the energy system during the so-called energy transition.

Several European countries have started working on the decarbonisation of natural gas, through the development of innovative technologies for the production of renewable gas, i.e. CO₂ neutral gas, including biogas and bio-methane, green hydrogen and synthetic methane produced through the "power-to-gas" method ("R-Gas") and decarbonised gas, i.e. CO₂ neutral gas produced from natural gas through the Carbon Capture and Storage ("CCS") method ("D-Gas") and their injection into the gas transmission systems.

The gradual decarbonisation of natural gas is not only expected to achieve the long-term decarbonisation targets (together with the significant increase in the RES share), but also to safeguard the viability of the existing or developing investments in natural gas infrastructure projects.

In early 2020, the Government issued a new National Plan for Energy and Climate (“NPEC”), which forms the Government’s new policy aimed at protecting the environment and dealing with climate change. The NPEC sets the following key targets: (a) full decarbonisation by 2028, based on a detailed schedule to be introduced in 2020; (b) power from RES to become the country’s main energy source reaching 65% of power production in 2030; and (c) a more ambitious target for greenhouse gas emission cuts, aimed at reducing the emissions by more than 42% as compared to 1990’s emissions and by more than 56% as compared to 2005’s emissions. Based on the NPEC, energy efficiency incentives for the energy renovation of public buildings, industrial facilities and residences are to be granted during the period 2020–2021. Furthermore, the NPEC envisages investment of a value of up to €43.8 billion in RES, natural gas and electricity transmission and distribution networks, as well as the granting of financial incentives for the purchasing of electric vehicles and launching of energy-saving programmes by 2030.

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).

Any import or export of natural gas activity is not subject to any licensing requirements and thus is freely exercised (Article 81 of Energy Law), subject to the obligation to obtain a supply licence for the sale of natural gas to end customers in Greece (please refer to our relevant response to question 8.1 below).

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.

Cross-border sales and deliveries of oil and oil products are not subject to any restrictions. However, the Lease Agreements or the Production Sharing Agreements may provide that in the event of a state of emergency, the contractor is obliged to sell any hydrocarbons produced to the State.

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 NNGTS transports gas from the Greek-Bulgarian border (upstream TSO BULGARTRANGAZ) and the Greek-Turkish border (upstream TSO BOTAS) to consumers in continental Greece. Pursuant to Article 67, para. 1 of Energy Law, the NNGTS comprises the main gas transmission pipeline and its branches, together with any future extensions thereof, the border metering and regulating stations, compression stations, operation

and maintenance centres, the LNG terminal of Revithoussa and any other ancillary facilities. The responsibility for the operation of the NNGTS is vested in DESFA, the latter also being responsible for the maintenance, management, exploitation and development of the entire system (Article 67, para. 4 of Energy Law). Currently there is no operating INGS in Greece; however, INGS Licences have been issued for the Greek parts of the IGB Project and TAP, in expectation of their commercial operation.

Transportation of oil in Greece is mainly carried out by oil tankers and tanker trucks and less by cargo trains. Pipeline transmission is very limited, as there are only two oil pipelines currently operating in Greece: a 220 km pipeline stretching from Thessaloniki to a refinery (OKTA) in North Macedonia owned by HELPE and a shorter pipeline in Attica connecting the Aspropyrgos refinery with the Athens International Airport, owned by the airport together with HELPE and Motor Oil Hellas.

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?

In addition to the licences/authorisations mentioned in our response to question 3.11 above (environmental terms approval, installation and operation licence, building permit, Seveso III registration), the following permits are required:

- (i) The right to construct an INGS and ownership thereof are granted through an INGS Licence issued by RAE pursuant to Article 74 of Energy Law. According to Article 77 of Energy Law, the right to operate and exploit an INGS is granted through an INGS Operation Licence, also issued by RAE. Further, transmission system operators (“TSOs”) operating within the Greek territory are subject to the unbundling rules set out under Article 62 of Energy Law and Article 9 of Directive 2009/73/EU (“**Gas Directive**”), thus being under the obligation to be certified by RAE as independent system operators (Article 64 of Energy Law). The specific requirements and the licensing procedure are regulated in detail by Ministerial Decision 178065/17.08.2018 (the “**Natural Gas Licensing Regulation**”).
- (ii) The right to transfer oil through a pipeline is granted through a relevant licence (“**Oil Pipeline Transmission Licence**”), according to Article 8 of Law 3054/2002.

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?

Pursuant to Articles 165–172 and 173, paras 1, 174 and 175 of the Energy Law regulating the route and establishment of a gas pipeline, a decision of the Minister defining the route of the pipeline is required. The procedure to be followed depends on the nature of the owners of the relevant land. More specifically, in the case of privately-owned land or land owned by municipalities, landowners are under the obligation to provide an easement right (Articles 165–169 and 170 of the Energy Law), subject to the payment of compensation, while any communal spaces are made available by the Greek State at no consideration (Article 170 of Energy Law). In the case that the realisation of the project needs seaside or seabed access, concession of such spaces can be granted through a joint ministerial decision

issued according to Article 173, para. 1 of the Energy Law. The consideration for the above easement rights, where applicable, is determined through a decision of the competent Decentralised Administration (Article 166, para. 4 of the Energy Law). Further to the above, pursuant to Article 171 of the Energy Law, if any expropriation is found to be necessary for the construction of a gas pipeline, as well as the necessary building of mechanical installations, the expropriation shall then be effected exclusively to the benefit of the State, with the latter in turn granting an access right to the project entity, in accordance with Laws 797/1971 and 2882/2001.

Article 1 of Law 367/1976 provides that the land required for the construction of an oil pipeline can be expropriated in accordance with Laws 797/1971 and 2882/2001.

Recent Law 4685/2020 (Article 110), amending the Hydrocarbons Law, provided that any State-owned land (including land owned by municipalities and prefectures) required for the conduct of seismic and other geological surveys necessary for the prospection and exploration of hydrocarbons, is provisionally granted to the contractor of a Lease Agreement without further regulatory and licensing requirements.

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

As provided for under Article 68 of Energy Law, DESFA, in its capacity as the owner and operator of the NNGTS, may enter into gas transmission services agreements, LNG facility usage agreements (for the use of Revithoussa terminal) and agreements for the use of storage facilities with third parties (“Users”). As per Article 72 of the Energy Law, in order for any person to be able to enter into transmission agreements with DESFA, registration with the NNGTS Users Registry kept by RAE is required. The registration requirements, the process and the relevant documentation are regulated by the Natural Gas Licensing Regulation and the NNGTS Users Registry Regulation (Ministerial Decision No. Δ1/Α/5816/2010 Government Gazette B’ 451/2010). Please refer to our response to question 6.6 below for the Third-Party Access regime applying in the NNGTS. Similarly, pursuant to Article 10 of Law 3052/2002, third parties are granted access to Oil Transmission Pipelines and storage facilities on a compulsory basis.

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?

Based on Article 79 of the Energy Law, the interconnection of an INGS with the NNGTS or other transmission systems is regulated through each INGS’s Operation Code. Further, the NNGTS is interconnected with the distribution network, through which gas is transferred to end users. On the other hand, oil pipelines interconnections are not regulated under Greek law, while the existing oil pipelines are not interconnected with other transportation facilities.

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?

EU internal market regulation typically requires gas TSOs, LNG system operators, and operators of storage facilities to grant energy companies non-discriminatory access to their infrastructure, as per Article 32 of the Gas Directive (“**Third-Party Access**” or “**TPA**”). However, according to Article 36, para. 1 of the Gas Directive and Article 16 of the Energy Law, major new gas infrastructure may, upon request and by way of RAE’s decision, be exempted, for a defined period of time, from the TPA obligation, in accordance with the procedure and preconditions provided for under Article 36 of the Gas Directive.

Under Article 10, para. 3 of Law 3054/2002, the holders of an Oil Pipeline Transmission Licence are obliged to grant Third-Party Access to their pipeline, as well as to storage facilities, the terms of which are not regulated and thus left to the parties’ free negotiations.

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?

Natural gas transmission agreements entered into with the NNGTS are based on pre-approved mandatory templates; currently the standard framework agreement approved through RAE’s Decision No. 1435/2020 (Government Gazette B’ 4802/30.10.2020) is applicable. The charges applying to users for accessing the NNGTS are calculated based on a list of tariffs annually prepared by DESFA and approved by RAE (currently regulated by RAE’s Decision No. 1038/2020 issued in the Government Gazette B’ 3367/12.08.2020), in accordance with the Tariffs Regulation approved by RAE’s Decision No. 1434/2020 (Government Gazette B’ 4801/30.10.2020).

Similarly, regulated tariffs apply for the use of the natural gas distribution networks, currently operated by the subsidiaries of DEPA Infrastructure S.A. (see below under question 7.1).

Unlike with the gas sector, the contractual and commercial arrangements of the Third-Party Access to oil pipelines are left to the parties’ negotiations, which, however, shall take place in good faith and subject to the principles of non-discrimination and fair competition (Article 10 of Law 3052/2002).

7 Gas Transmission / Distribution

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

Pursuant to Article 80B of Energy Law, the distribution of natural gas is carried out by the three newly established natural gas distribution companies (“**EDAs**”), each of which is responsible for the operation of a geographically divided distribution network, namely Attica (Attiki Gas Distribution Company Single Member S.A. “**EDA ATTICA**”), Thessaloniki and Thessaly (Thessaloniki-Thessaly Gas Distribution Company S.A. “**EDA THESSALONIKI**”) and rest of Greece (Public Gas Distribution Networks Single Member S.A. “**DEDA S.A.**”) (Article 80A of the Energy Law). Ownership of the parts of the distribution network developed before 1 April 2017 lies with DEPA, while any new parts of the distribution network developed by the EDAs shall be owned by the respective EDA. Currently, DEPA Infrastructure

S.A. is the sole shareholder of EDA ATTICA and DEDA S.A. and majority shareholder of EDA Thessaloniki (the remaining stake belongs to a private investor).

Law 4602/2019 provided for the split of DEPA's commercial and infrastructure activities, as part of the latter's full unbundling. Subsequently, based on Law 4643/2019, amending Law 4602/2019, DEPA was divided into three separate legal entities: "DEPA Infrastructure S.A.", comprising all the distribution gas activities of DEPA, "DEPA Commercial S.A.", where all DEPA's gas-related activities (both wholesale and retail) are transferred and "DEPA International S.A.", comprising all the international infrastructure projects in which DEPA participates. Under the same law, the sale of the HRADF's total shares in DEPA Commercial S.A. and DEPA Infrastructure S.A. was proclaimed, excluding shares of DEPA International S.A. In December 2019, the HRADF published an invitation to submit expressions of interest for the acquisition of 100% of the share capital of DEPA Infrastructure S.A., with the submission of binding offers set to take place in the first quarter of 2021. Furthermore, in February 2020, the HRADF launched a second tender for the acquisition of a majority shareholding (65%) in DEPA Commercial S.A., with an option to acquire the whole of its issued share capital. Seven international players were prequalified for the next phase of the tender, for which the submission of binding offers is currently scheduled for early 2021.

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

A Distribution Network Licence is required for the construction of a distribution network and a Distribution Network Operation Licence must be obtained for the operation and commercial exploitation of such network (Article 80, para. 2 of the Energy Law, Article 28 of the Natural Gas Licensing Regulation); both licences are issued by RAE.

Depending on the specific technical conditions, the construction of a distribution network may be subject to environmental, building and installation/operation licensing.

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

As provided for under Article 80 of the Energy Law and the Distribution Network Code (RAE Decision No. 298/2018, Government Gazette B' 1507/02.05.2018), third parties may gain access to the distribution networks by entering into a distribution services agreement with the EDAs. As with the NNGTS, registration with RAE's NNGTS Users Registry is a prerequisite for accessing the distribution networks as well. As per Article 32 of the Gas Directive, the Third-Party Access regime described in our response to question 6.6 above applies for distribution networks as well.

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

Pursuant to Article 58 of the Distribution Network Code, the distribution networks are expanded or upgraded according to a five-year development plan, issued by RAE, following a proposal of each EDA. Such development plan is subject to mandatory online public consultation, while the operators shall

prepare the development plans taking into account the needs and relevant request of the end customers.

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

The charges applying to users for accessing the distribution networks are regulated by RAE through Tariffs Regulations and separate Usage Tariffs issued for each of the EDAs.

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)?

In line with the EU energy regulation, the Greek distribution system operators ("DSOs") are subject to ownership unbundling rules, as provided for in the newly introduced Articles 80E *et seq.* of Energy Law (added by virtue of Law 4602/2019). In this respect, all DSOs shall be subject to unbundling certification by RAE (Article 80F of the Energy Law), while any person/entity acquiring an interest in a DSO shall notify RAE in advance and obtain the latter's prior approval.

Pursuant to Article 18, para. 8 and Annex 1 of Section II of the Natural Gas Licensing Regulation, DSOs are under the obligation to notify RAE of any intended change in their shareholding and to submit an application for the amendment of their respective licence once such change is effected.

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.

In principle, any activity of sale, purchase, import or export of natural gas is not subject to any licensing requirement and thus such transactions are freely carried out (Article 81 of the Energy Law). A supply licence issued by RAE is only required for the supply of natural gas to end customers; thus, wholesale trading is not regulated, although RAE can impose restrictions on the supply of natural gas by wholesale customers in order to ensure security of supply and fair competition.

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?

As a principle, natural gas is freely traded in Greece, subject to licensing requirements (supply licence, where applicable) and the ownership unbundling rules, set out in the Energy Law and the Gas Directive.

9 Liquefied Natural Gas

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

The LNG terminal on Revithoussa Island, the country's only

operative LNG terminal, is part of the NNGTS and thus owned and operated by DESFA, as provided for under Article 67, para. 1 of the Energy Law.

This LNG terminal was expanded in 2018, allowing Greece to receive larger LNG cargoes. The upgrading of its third tank increased the total storage capacity of the terminal by 75% to 225,000 m³ from 130,000 m³, facilitated the growth of the gasification rate by 40% at 1,400 m³ per hour from 1,000 m³ per hour and enabled the docking of larger LNG cargoes. Regarding the technical operation of the terminal, it is worth mentioning that in the first half of 2019, the average gasification increased to 80.99 million KWh per day from 51.57 KWh in 2017 and 38.05 million KWh in 2018, respectively.

The Alexandroupolis LNG terminal, currently under development by GASTRADE S.A., a private utility company, once completed, will be the second LNG terminal operating in Greece.

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

The construction and operation of LNG facilities in Greece are subject to the issuance of an INGS Licence (Article 74 of the Energy Law) and an INGS Operation Licence, respectively, both issued by RAE. In general, the licensing requirements are the same as for the transmission systems, as outlined in our response to question 6.2 above.

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

The charges applying to users for accessing the LNG facilities on Revithoussa Island are regulated through the NNGTS tariffs, as described in our response to question 6.7 above. Other than that, charges for Third-Party Access to INGS LNG facilities are predetermined by the relevant independent TSO and applied in the terminal usage agreements entered into with the terminal users (Article 78 of Energy Law).

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

As per Article 32 of the Gas Directive, a Third-Party Access regime, as outlined in our response to question 6.6, applies to LNG facilities as well.

10 Downstream Oil

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

According to Article 4 of Law 3054/2002 and Ministerial Decision 16570/2005 (“**Oil Licensing Regulation**”), the activities of oil refining, wholesale and retail trading, transportation through pipeline and liquid gas bottling are regulated and a relevant licence needs to be acquired, while the importers of crude oil are subject to certain security stock obligations, as prescribed in detail under Article 12 of Law 3054/2002.

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

Pursuant to Article 6 of Law 3054/2002 and the Oil Licensing

Regulation, a wholesale trading licence is granted to companies limited by shares (*Société Anonyme*), limited liability companies or Private Companies (“**IKEs**”) or companies operating under any equivalent form in an EU Member State. Based on the same provisions, certain minimum share capital and storage capacity requirements must be met in order for such licence to be issued.

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?

The Hellenic Competition Commission (the “**HCC**”) is the Greek independent authority empowered with the administrative enforcement of Law 3959/2011 (“**Competition Law**”), for all fields of commercial activity.

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

Pursuant to Articles 1 and 2 of Competition Law, anti-competitive behaviours (such as price/bid rigging, cartels, implementation of restrictions or controls on the production, trading, technological development or investments, unfair allocation of markets or sources of supply, and trading on unequal commercial terms) and abuse of dominant position, accordingly, are strictly prohibited.

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

With regard to undertakings, the HCC has extensive investigative powers, including access to information, interrogation procedures and on-site investigations without prior notice, while heavy administrative fines can be imposed on entities infringing the Competition Law or obstructing the HCC’s procedures.

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?

Transactions subject to antitrust clearance are those that qualify as “concentrations” and meet certain turnover thresholds, as set out in Regulation (EC) No. 139/2004 (“**ECMR**”) and the Competition Law, respectively. As stipulated under Article 6, para. 1 of the Competition Law, all concentrations of undertakings are subject to preliminary control and shall be notified to the HCC within 30 days of: (i) the conclusion of the agreement; (ii) the announcement of the offer to buy or exchange; or (iii) the undertaking of an obligation for the acquisition of a controlling interest, in any case where the total worldwide turnover of the undertakings concerned amounts to at least €150 million, and each of at least two of the undertakings involved separately achieves a turnover exceeding €15 million in the Greek market. The duration of the procedure before the HCC depends on the

level of complexity of each transaction; in practice, transactions raising no competition concerns are fairly swiftly cleared.

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?

In principle, no nationality restrictions apply for the issuance of INGS Licences, INGS Operation Licences, Distribution Network Licences, Distribution Network Operation Licences, and Natural Gas Supply Licences or for obtaining access to the NNGTS or the country's distribution networks. However, a special (stricter) process is followed for the unbundling certification of non-EU TSOs, as per Article 11 of the Gas Directive and Article 65 of the Energy Law.

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?

As an EU Member State, Greece is actively promoting energy reforms, particularly by transposing the provisions of the third EU Energy Package for the liberalisation of electricity and natural gas markets. Further, Greece is a signatory to a number of international treaties and conventions of relevance to the oil and gas industry, most notably the Energy Charter Treaty ("ECT"), and the International Convention for the Prevention of Pollution from Ships ("MARPOL").

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.

According to Article 10, para. 13 of the Hydrocarbons Law, all disputes among the parties related either to the performance of the terms of the hydrocarbons Lease Agreements or arising from non-contractual liability are excluded from the scope of court proceedings before both Greek and foreign courts. Such disputes shall mandatorily be settled through arbitration, either according to Law 2735/1999 on international commercial arbitration or any other internationally recognised arbitration system, such as the International Chamber of Commerce ("ICC"), the London Court of International Arbitration ("LCIA") or the Arbitration Institute of the Stockholm Chamber of Commerce. The seat of arbitration shall be Athens and the proceedings shall be carried out in Greek. However, in the latest Lease Agreements entered into between the State and private investors, an alternative dispute resolution mechanism

has been implemented, according to which, a number of serious disputes between the parties are referred to a sole expert, while such expert's decision is subsequently subject to appeal through arbitration.

Any gas-related disputes between energy players and customers can be settled through arbitration before RAE's arbitration board, in accordance with Article 37 of the Energy Law. Under Articles 106–108 of the NNGTS Operation Code, any disputes between DESFA and NNGTS Users are resolved by a technical expert and, ultimately, by the Courts of Athens. Pursuant to Article 6 of the Distribution Network Code, any disputes between the distribution network users and operators are settled either before RAE or through the arbitration procedure established under Article 37 of Energy Law.

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")?

Greece is a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, ratified by Legislative Decree 4220/1961, as well as to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States ("ICSID"), ratified by Law 608/1968.

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)?

Pursuant to Article 94, para. 4 of the Greek Constitution, judgments and awards shall be enforced against the State, local authorities and public entities. The relevant procedure is governed by Law 3068/2002, as amended and in force, as well as the Greek Code of Civil Procedure. However, it is noted that judgments can be enforced only against private (rather than public, e.g. public buildings) assets of the Greek State.

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 not aware of any such notable cases.

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 fourth version of the NNGTS Operation Code, issued in 2018, enabled full compliance with EU Regulation 459/2017, establishing a network code on capacity allocation mechanisms, aiming to further increase the liquidity of the Greek natural gas market. Following this regulatory introduction, as of 1 July 2018, NNGTS maintains a fully operational Virtual Trading Point, as specified in Article 20K of the NNGTS Operation Code. With the activation of the Virtual Trading Point, natural gas traders not involved in physical trading were offered for the

first time the possibility to operate in the Greek market, since it is now possible to get involved in natural gas transactions, irrespective of whether they have contracted capacity at entry/exit points or not.

14.2 Please provide a brief comment on the impact (if any) of the COVID-19 pandemic on the oil and gas industry in your jurisdiction.

The COVID-19 pandemic has undoubtedly affected every commercial activity worldwide causing the suspension of business activities and projects in all sectors. In the energy sector, oil prices plunged to a record low, while national lockdowns imposed by governments around the globe, including the Greek Government, had a game-changing impact on the levels of demand for power and natural gas. As part of the Greek Government's efforts to contain the effects of the COVID-19 pandemic, various urgent measures were adopted during the spring of 2020, focusing on (a) granting extensions in any regulatory process related to energy

activities, and (b) advancing the digitalisation of natural gas supply contracts, with a view to facilitate both customers and suppliers in light of the restrictions during the country's lockdown. Another critical measure adopted by the Greek Government helped companies dealing in the production, transmission and supply of gas and liquid fuels, as well as in the production, distribution, transmission and supply of power and natural gas, so that they would continue to have access to materials and equipment necessary for their activities.

Furthermore, like several other EU Member States, the Greek Government has also announced and enforced support measures for citizens or companies, some of which entail State aid within the meaning of Article 107(1) TFEU. In this context, the Greek Government has either proceeded with or is considering whether to proceed with supporting companies active in the oil and gas sector that have been affected by the COVID-19 outbreak, mainly within the Temporary Framework For State Aid Measures To Support The Economy In The Current COVID-19 Outbreak (2020/C 91 I/01).



Yannis Seiradakis joined the Firm in 2004 and is Head of the Energy & Environment department and Joint Head of the Privatisations department. He has a wide-ranging transactional practice which encompasses complex privatisations, public and private project developments and mergers and acquisitions, with expertise in the infrastructure, energy, finance, utilities, telecommunications and transport sectors.

Yannis' vast experience in privatisations reaches back to his time as Special Secretary for Privatisations at the Ministry of Finance, in which capacity he managed the sale of numerous State-owned companies, notably public utilities. Since joining the Firm, he has been involved in high-profile privatisations of grid operators, motorways, ports, airports and railways.

Yannis is an expert in energy law, advising on the structuring, development, financing and implementation of transactions and projects in the conventional and renewable energy sectors. He advises extensively on legislative risk and compliance and counts leading energy companies, international investors, financiers and Government bodies among his clients.

Yannis advises both privately-owned and State-owned entities and consortiums on project financings and public private partnerships, with a specialisation in documenting and negotiating concession contracts. He also advises on the regulatory framework for the assignment of public contracts by way of tenders and for developing projects and public private partnerships.

Yannis advises public and private companies, investors and financial advisors in mergers, acquisitions, restructurings and divestments of primarily distressed assets. Much of his work in this area is cross-border and takes place in highly regulated sectors.

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Eleni Stazilova is an Associate at the Firm, which she joined in 2017. She advises on project finance and energy-related transactions, public procurement and public private partnerships.

Eleni has experience in drafting and negotiating commercial and finance agreements and participating in due diligence reviews. She also advises on the legal and regulatory framework governing tender procedures, acquisition and development projects in the conventional and renewable energy sectors, and on licensing and permit requirements for all types of energy project.

Eleni represents clients in filing tender bids and legal recourses, petitions and applications arising from their participation in tenders and other public procurement procedures. Prior to joining the firm, Eleni worked as corporate counsel in the architectural and construction sectors in Greece and abroad.

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markets and the implementation of community legislation. Our clients include market leaders in the conventional energy and renewables industries, leading oil companies, international financing institutions and lending banks, as well as Government bodies, to whom we provide advisory, transactional and litigation services.

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