



# ICLG

The International Comparative Legal Guide to:

# Oil & Gas Regulation 2018

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

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# Greece

KLC Law Firm

Dr. Vassilis Karagiannis



## 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.**

In Greece, all demand is exclusively met by imports. The National Gas Transmission System (NGTS) has three main entrances: Sidirokastro (on the Greek-Bulgarian borders); Kipoi (on the Greek-Turkish borders); and Agia Triada, where regasified LNG from the regasification terminal of Revithoussa enters the NGTS. A new pipeline which crosses Greece and Albania, the Trans Adriatic Pipeline, known as the TAP, is under construction. The TAP is aimed at transporting Azeri gas to Italy and further to Western Europe by crossing Greece and Albania.

The NGTS is operated by DESFA, a fully owned subsidiary of DEPA and the incumbent gas operator in Greece. DESFA currently, for the moment, operates under the IPTO model, but its privatisation is currently in progress. Should this process be completed, DESFA will then operate under the Full Ownership Unbundling Model (FOU).

Recently, the law provided for the unbundling of the distribution networks. Thus, Greece has four distribution network operators, the so-called "EDAs" in the regions of Attica, Thessaly and Thessaloniki, respectively, and the operator for the rest of Greece, the so-called "DEDA".

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

The share of natural gas in the country's total primary energy supply (TPES) increased to 13.82% in 2013. Because of the growth in the demand for electricity and the subsequent construction of new gas-fired power stations, demand for natural gas steadily increased and in 2012 stood at 4.4 bcm (12 million m<sup>3</sup>/d). The forecast for 2018 is approximately 4.9 bcm. Oil represents approximately 45% of the country's TPES (317.9 kb/d). A sharp decline to around 274.6 kb/d is forecast for 2018.

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

The requirements are met exclusively by imports.

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

There is no significant gas export activity in Greece.

## 2 Overview of Oil Sector

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

Almost all of the crude oil used in Greece is imported. Domestic production of oil is limited to the Prinos offshore field in the Kavala Gulf in the northern Aegean Sea. There are two companies refining oil in Greece: Hellenic Petroleum S.A.; and Motor Oil Hellas. The four refineries in Greece have a total crude distillation capacity of around 490 kb/d. Around two-thirds of this capacity is owned by Hellenic Petroleum S.A., with two refineries located in the Athens area and a third near Thessaloniki. The fourth refinery, owned by Motor Oil Hellas, is located in Corinth. There are 10 oil terminals in Greece, seven located in the Attica area (Athens) and the remaining three in the Thessaloniki area. Six oil terminals receive crude oil; four of these terminals are located near the refineries. In the downstream market, over 20 trade fuel companies operate in Greece, with six of them covering almost 70% of inland consumption.

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

As already mentioned, oil is the dominant energy source in Greece representing approximately 45% of the country's TPES.

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

Only a small portion of the oil demand in Greece is covered by domestic production (currently, some 5 kb/d).

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

The country's small amount of oil production is domestically consumed. However, Greece was a net exporter of refined oil products in 2012, exporting 245 kb/d of such products. The destination of oil exports was mainly Turkey (22%), Singapore (9%), Lebanon (7%) and Libya (7%).

## 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 (GG A 27/1995), transposing EC Directive 94/22 (OJ L 164 of 30.06.1994, p. 3), as amended by Law 4001/2011 (GG A 179/2011), is the main applicable legal framework for the prospection, exploration and production of hydrocarbons in Greece. According to the said Law, all rights of prospection, research and exploration of hydrocarbons in onshore and offshore areas within the sovereignty of Greece belong to the Greek State. The management of these rights are vested to a fully state-owned company named "Hellenic Hydrocarbon Resources Management S.A." – HHRM (see also Presidential Decree 14/2012). The HHRM is, *inter alia*, responsible for the organisation of the exploration and production tenders for the evaluation of the offers submitted and the monitoring of the respective contracts.

### 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?

According to Law 2289/1995, as in force, the Greek State's exploration and production rights may be granted either under a Lease Agreement or a Production Sharing Agreement. Both types of agreement are signed by the Contractor and the Greek State or the HHRM, as the case may be, and approved by the Minister of Environment & Energy. Without this approval the contract is null and void.

### 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).

Law 2289/1995 distinguishes two phases in the hydrocarbons upstream market. The exploration phase and the production phase. The maximum duration for the exploration phase in onshore areas is seven years and in offshore areas eight years from the date of execution of the respective agreement with the Greek State (article 5 paragraph 1 of Law 2289/1995, as in force). A possibility for an

extension is provided under strict conditions. This extension cannot exceed half of the initial duration. The production phase has a maximal duration of 25 years from the date on which the Contractor notifies to the Greek State that it has discovered a commercially exploitable deposit (article 5 paragraph 8 of Law 2289/1995, as in force). This term is twice extendable for a period of five years each. The right to prospect a specific area is granted by the HHRM and approved by the Minister of Environment & Energy and has a maximum duration of 18 months.

### 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)?

The law provides the contracting authority with the choice between a Lease Agreement and a Production Sharing Agreement. Under the second type of contract the Greek State will acquire ownership of a specified percentage of the extracted hydrocarbons at the moment of their extraction. Which type of agreement will be preferred for each contract area is determined by a decision of the Minister of Environment & Energy. As a matter of policy, to date, the type of Lease Agreement was the preferred type of contract.

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

In the case of a Lease Agreement, the Greek State will derive oil and natural gas development value from royalties. The invitation to tender may also provide for the payment by the successful tenderer during the exploration and production phase of an annual fee corresponding to the surface of the area used for the exploration and production phase (the so-called "surface fee").

According to articles 8 and 9 of Law 2289/1995, the Lessee or the Contractor is subject to a national and regional income tax of 20% and 5% respectively, which are derived from the contract. The Contractor is exempted from any other taxation save for VAT.

### 3.6 Are there any restrictions on the export of production?

The Contractor is free to export the extracted hydrocarbons, unless specified otherwise in the contract with the Greek State.

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

Basically, as Greece is a member of the Eurozone, no such restrictions should apply. Article 2 paragraph 4 of Presidential Decree 127/1996 provides that the Contractor has the right to transfer its income abroad. However, after 28.06.2015 and the liquidity crisis of the Greek banking system, a capital control regime applies which affects the possibility of exporting funds abroad (Legislative Act of 18.07.2015 (GG A 84/2015) as ratified by article 4 of Law 4350/2015, and several times amended). Thus, transferring funds abroad is prohibited unless subject to specific limited exceptions. Said exceptions are in principle established with regard to "new money" and business transactions of legal persons. Further to that, wire transfers may be allowed on an *ad hoc* basis (subject to the approval of a special committee).



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

As provided by article 7 paragraph 4 of Law 2289/1995, as in force, the rights of the Lessee or the Contractor may be wholly or partially transferred to a third person, upon written consent of the Lessor and approval of the Minister of Environment & Energy. The Lessor can subject its consent to any conditions for the safeguard of its proper interests.

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

According to article 2 paragraph 5 of Law 2289/1995, as in force, the call for tender for the granting of the licence to prospect a given area, issued by the HHRM and approved by the Minister of Environment & Energy, specifies the amount of the good performance letter of guarantee that the licensee should provide. This letter of guarantee must be issued from a credit institution established within the EU.

### 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?

Without prejudice to the aforementioned limits in response to question 3.8, there are no other applicable restrictions in pledging the rights to develop hydrocarbons.

### 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?

As per the dispositions of Law 4014/2011, environmental licensing is requested for any activity or construction which has an impact on the environment. Presently, the applicable category of activities related to the exploration and extraction of oil and natural gas falls within Category no. 7 of Group no. 5 classified in Annex V of Ministerial Decision no. 1958/2012 (GG B 21/13.01.2012), as in force.

Such licensing incorporates, among others, clearance from the competent authorities of the Ministry of Culture in terms of legislation for the protection of cultural heritage, i.e. Law 3028/2002, as well as from the Forest Authorities in terms of suitability from the scope of forest areas' protection, i.e. Law 998/1979, as in force.

A working permit is also issued regarding the construction of auxiliary infrastructure as per the dispositions of Law 4495/2017.

Moreover, an installation permit and, following that, an operation permit must be held before the construction of oil or natural gas pumping, storage and auxiliary infrastructure, which are granted by means of a Ministerial Decision issued by the Minister of Environment & Energy as per the dispositions of article 17 of Law 3982/2011, as derived from Joint Ministerial Decision no. 2219/146/Φ15/29.02.2012 (GG 584 B/2012).

Provided that natural gas and specific oil products fall within the category of "named substances" of Directive 2012/18/EU (Seveso III), the relevant establishments are regulated by the dispositions of Joint Ministerial Decision no. 17205/11.02.2016 (GG B 354/2016) upon which Directive 2012/18/EU has transposed into national

legislation the relevant establishments which should comply with the dispositions thereof.

### 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 paragraph 6 of Law 2289/1995, as in force, the Contractor can withdraw from its right to prospect a specific area. In this case it might be obliged to provide the Licensor with a lump sum. Furthermore, pursuant to article 5 paragraph 14 of Law 2289/1995, as in force, the Lessee or the Contractor can withdraw from its right to explore in a specific area or areas. In this case the Lessor has no obligation to pay the Lessee or the Contractor any damages or expenses. Generally, after the end of the prospect/exploration/production phase, the use of the land corresponding to the area under the contract must return to the Greek State free of any encumbrances. The Law and the contract provide for the fate of immovables and movables within the conceded area. Before that, the Lessee or the Contractor has the obligation to remove any mortgage or pledge. Upon the end of the production phase the Contractor must appropriately plug all producing wells and known water zones, remove all installations and restore the environment. The performance of these obligations is supervised by a special committee. The same conditions are *mutatis mutandis* applicable if the Contractor is declared forfeited or if the Contractor renounces its production rights.

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

Gas storage facilities are subject to an installation permit and an operation permit according to the general rules laid down by Law 3982/2011 (GG A 143/2011). Additional environmental and urban planning requirements and authorisations may apply depending on the location of the facility.

## 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).

Imports into Greece and exports from Greece of gas are not subject to holding any prior authorisation/licence. However, whoever wants to import/export gas has to book/dispose of the relevant capacity rights on the interconnections of the NGTS. Capacity rights are allocated through auctions for the entry points of the NGTS. Furthermore, DESFA must provide third-party access to the LNG terminal of Revithoussa.

## 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.

Generally, no prior authorisation is required for importing/exporting

oil products. However, a reseller who wishes to be supplied oil directly from refineries or imports has to be vested with a specific prior authorisation according to article 13 of the Licence Regulation (GG B 1036/2005).

## 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).

Greece has two oil pipelines. The first, a 220 km-long, 16-inch crude pipeline with a capacity of 50 kb/d, links the Thessaloniki port in Greece with the Octa refinery in the Former Yugoslav Republic of Macedonia (FYROM). It is owned and operated by the company Hellenic Petroleum S.A. The second, a 53 km-long, 10-inch Jet A-1 pipeline with a capacity of 42 kb/d, connects the Aspropyrgos refinery with Athens International Airport. This pipeline is owned and operated by the “Company of the fuel pipeline of Athens International Airport S.A.”, a joint venture between Hellenic Petroleum S.A., Motor Oil Hellas and Athens International Airport S.A. According to article 25 paragraph 3 of Law 3054/2002 (GG A 230/2002), the owner of this pipeline is obliged to grant access to the prospective Users of the pipeline.

Regarding gas transportation, in Greece there are actually no independent pipelines, except the NGTS. Note also that the LNG terminal located in Revithoussa is part of the NGTS. Furthermore, Law 4001/2011 provides for the possibility to operate, under a licence granted by the Regulatory Energy Authority (RAE), an independent system of natural gas (the so-called “*Anexartito Systima Fysikou Aeriou*” – ASFA). Basically, in the operation licence of the ASFA, specific third-party access obligations can be imposed on the owner. However, article 76 of Law 4001/2011 provides for special conditions under which a derogation from such obligations may be granted.

### 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?

Pursuant to article 8 of Law 3054/2002, whoever wishes to transport crude oil or oil products needs to obtain an authorisation of transport by pipeline. This special authorisation is not required if the pipeline is an operational part of a refinery or links a refinery with trading installations. For constructing a pipeline, one must obtain an installation and operation permit pursuant to the provisions of Law 2516/1997 (GG A 159/1997). As already mentioned, in Greece there are no gas pipelines outside the NGTS. Such pipelines should be licensed by the RAE as ASFA. The competence of forming an opinion for the issuance of decisions regarding the definition of the installation and route of oil and natural gas pipelines and exploitation of hydrocarbons has been assigned to the Directorate of Hydrocarbons, Department of Installations of the Ministry of Environment and Energy, according to article 44 of its Internal Regulation (Presidential Decree 132/2017 (GG A 160/2017)).

Environmental licensing is necessary before the construction of oil and natural gas pipelines as per the dispositions of Law 4014/2011, as in force, and those of Ministerial Decision 1958/2012 (GG B 21/2012), as in force.

A working permit is also issued regarding the construction of auxiliary infrastructure as per the dispositions of Law 4495/2017.

Moreover, an installation permit and, following that, an operation permit, must be held before the construction of an oil or natural

gas pipeline and their auxiliary infrastructure, which are granted by means of a Ministerial Decision issued by the Minister of Environment & Energy as per the dispositions of article 17 of Law 3982/2011, as derived from Joint Ministerial Decision no. 2219/146/Φ15/29.02.2012 (GG 584 B/2012).

Provided that natural gas and specific oil products fall within the category of “named substances” of Directive 2012/18/EU (Seveso III), the relevant establishments are regulated by the dispositions of Joint Ministerial Decision no. 17205/11.02.2016 (GG B 354/2016) upon which Directive 2012/18/EU has transposed into national legislation the relevant establishments which should comply with the dispositions thereof.

### 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?

Land acquisition for such purposes is regulated by article 1 of Law 367/1976 (GG A 162/1976), as in force. More specifically, the said article provides that compulsory expropriation of plots lying within urban or rural areas or the creation of rights *in rem* on such plots is permitted in favour of the Hellenic Republic or Hellenic Petroleum S.A. (formerly Public Petroleum Corporation S.A.), provided that those plots are necessary for research works, drillings, installations, exploitation and other works for hydrocarbons reserves located within Greek territory and the regions referred to in article 148 paragraph 1 of the Mining Code (Legislative Decree 210/1973 (GG A 77/1973)), i.e. reserves located beneath lakes or seas, the installation of oil production entities and storage tanks for national and foreign hydrocarbons or products/processing, including refining – said hydrocarbons and plots must be absolutely necessary for the servicing of the aforementioned installations, and as such are characterised as of public utility. Compulsory expropriation of plots lying within urban or rural areas or the creation of rights *in rem* on such plots are permitted in favour of Hellenic Petroleum S.A. (formerly Public Petroleum Corporation S.A.), a subsidiary company thereof, or municipal company for natural gas, in case these actions are necessary for natural gas pipeline routes or other gas fuels and for installations related to the system of transmission, distribution, processing and storage of natural gas and other gas fuels. These actions are characterised as of public utility. The aforementioned expropriation, regulated by the dispositions of Legislative Decree 797/1971 on compulsory expropriations, is declared by a Joint Ministerial Decision of the Finance Minister and Industry Minister.

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

In the oil sector, pursuant to article 10 paragraphs 3 and 4 of Law 3054/2002, access to pipelines is granted on the basis of ordinary commercial negotiations between the owner of the pipeline and the refineries or the traders. However, the said Law provides that the owner of the pipeline in granting such access must not favour its own shareholders and apply cost-oriented prices. Similarly, access to storage facilities (article 10 paragraph 2 of Law 3054/2002) is subject to free negotiation between the interested parties respecting the principle of fair competition and the price being cost-oriented. In the gas sector, any pipeline outside the NGTS would be licensed as ASFA. Such licence could impose on the owner of the pipeline (of the system) third-party access obligations. The storage LNG facility of Revithoussa is part of the NGTS and thus regulated access conditions apply.

**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?**

In the oil sector, as there are no interconnected pipelines in Greece, such question is not dealt with by national law. In the gas sector, the owner of an independent gas system (ASFA), pursuant to article 79 of Law 4001/2011, submits an application to the RAE and the RAE approves the Code of Management of the system, which provides, *inter alia*, for the applicable conditions as per interconnection with the NGTS or other systems and the necessary cooperation between the respective operators.

**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?**

See the answer to question 6.4.

**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?**

As already mentioned, the terms of the transportation of oil are basically the result of free commercial negotiations. Prices are not strictly speaking regulated. However, applicable tariffs must generally respect the principles of non-discrimination and fair competition. The tariffs for the use of the NGTS are regulated (see MD 4955/2006 (GG B 360/2006), several times amended).

## 7 Gas Transmission / Distribution

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

The NGTS is owned and independently managed by DESFA according to the IPTO model. According to article 63 B of Law 4001/2011, as in force, DESFA is vested with all the necessary human and financial resources for operating the NGTS efficiently. As the NGTS's operator, DESFA, acts in a non-discriminatory manner towards all Users and is fully independent from the Public Gas Corporation (DEPA), the Code of the NGTS (GG B 379/2010) regulates access conditions to the system.

The local distribution networks (Attica/Thessaly/Thessaloniki) are owned by DEPA, but independently managed by the EDAs pursuant to article 80 of Law 4001/2011, as amended by Law 4336/2015 (GG A 94/2015). Similarly, the distribution networks of the rest of Greece are owned by DEPA, but managed independently by DEDA.

The main governmental initiative pursuant to the memorandum of understanding between Greece and its creditors was the unbundling of the distribution activity from the supply activity (see Law 4336/2015, *op.cit.*).

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

Pursuant to article 80 paragraphs 1 and 2 of Law 4001/2011, as in force, a distribution network operator must be granted a Licence of Distribution and a Licence of Management of a Distribution Network, which are both issued by the RAE. It is possible on the basis of the criteria of economic efficiency that the Licence of Management is granted to a third person and not the holder of the Distribution Licence. No environmental licensing is required for the operation of the natural gas distribution network in urban areas. Conversely, gas fuel pipelines and their auxiliary infrastructure are licensed as per MD 1958/2012, under specific conditions of length or pressure, if they are located beyond the road network.

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

The distribution network operator must grant access to the network to all (prospective) Users in an objective and non-discriminatory manner. The specific rules of access are further established in the Licence of Management and the Code of Management of Distribution Networks (RAE's Decision 589/2016 (GG B 487/2017)).

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

Every year each distribution network operator submits to the RAE its Five-year Development Plan, which is approved by the RAE and must be executed. However, the network operator can expand its network in order to accommodate new customers, even if the required expansion is not included in the Development Plan.

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

The fees for access and use (the so-called "basic activity") of the distribution networks are defined in the Code of Tariffs (RAE's Decision 339/2016 (GG B 3181/2016)).

**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)?**

Such modifications of a distribution network must be approved by the RAE.

## 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.**

There are no ownership restrictions for trading gas in Greece. However, whoever wishes to supply gas to eligible customers needs to obtain a Supply Licence pursuant to article 81 paragraph 1 of Law 4001/2011, as in force. The Supply Licence is granted by the

RAE according to the Licence Regulation (Decision of the Energy & Environment Minister (GG B 464/2010)).

## **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?**

All natural gas commodities can be traded in Greece. Pursuant to the unbundling introduced by Law 4336/2015, offering bundled products is no longer permitted, i.e. the natural gas commodity and the distribution thereof.

## **9 Liquefied Natural Gas**

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

The only LNG terminal operating in the country, the terminal of Revithoussa, is operated by DESFA as part of the NGTS.

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

An LNG facility will have to be authorised (licensed) by the RAE as an ASFA.

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

In Greece, there is no *ex ante* regulation of the prices of LNG. The terms of service and the prices for the use of an ASFA are regulated by the Code of Management, provided in article 79 of Law 4001/2011, and the licence itself, as provided by article 74 of Law 4001/2011, as in force.

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

The licence and the Code of Management of ASFA provide for specific obligations of the owner/operator to grant equal access to all (prospective) Users of the facility.

## **10 Downstream Oil**

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

Refinery activity is normally subject to prior authorisation according to article 5 of Law 3054/2002. The owners of such licence can only supply oil products to: the owners of a trade licence; the army; large customers; cooperatives; and the owners of a retail trade licence, under specific conditions. However, it is worth noting that, according to article 23 paragraph 1 of Law 3054/2002, the refinery companies (practically all the existing refinery companies) operating at the time of its entry into force were granted an *ex lege* licence. In Greece, according to article 12 of Law 3054/2002, whoever imports crude oil or oil products to refineries, traders or large customers has the obligation to contribute to the maintenance of the obligatory emergency stock. The level of this stock is fixed to 90 days of the average net imports.

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

There are no specific restrictions as per the ownership status of trade companies. Traders must be authorised according to article 6 of Law 3054/2002 and the Code of Licences. They must have legal personality and they can sell oil products to other traders, retailers, large customers or customers possessing storage facilities, under non-discriminatory and transparent terms, respecting environmental standards and safety. The following categories of licences are available: Category A – trading of crude oil and oil products; Category B.1 – trading of tax-free fuels for vessels; Category B.2 – trading of tax-free fuels for aeroplanes; Category C – trading of Liquefied Gases (LG); and Category D – trading of asphalt.

## **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 (HCC) has full jurisdiction to apply competition rules (articles 101 and 102 of the TFEU and the domestic Law of Free Competition – Law 3959/2011 (GG A 93/2011), as in force, in the oil and gas sector.

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

The HCC applies the traditional criteria for determining whether a collusion or unilateral practice is anti-competitive: cartels (e.g. price fixing) are *per se* prohibited, and other types of agreements (e.g. vertical agreements, long-term upstream contracts, whether supply contracts or capacity contracts) must be assessed on the basis of their effects on the market. Abuses of dominance refer to exclusionary practices (foreclosure of competitors, e.g. fidelity rebates) or exploitative abuses (e.g. excessive pricing).

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

According to Law 3959/2011, the HCC has a full range of measures against infringers of competition law. It can order the infringer to put an end to the anti-competitive behaviour and/or impose an administrative fine or order structural measures against the infringer. It can also accept commitments aiming to end the infringement on behalf of the undertakings that have violated competition rules.

### **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?**

According to articles 5 to 10 of Law 3959/2011, the HCC has full jurisdiction to review mergers and concentrations, generally, in the



oil and gas sector. According to the established EU practice and jurisprudence, in assessing concentrations the HCC refers to the so-called SIEC test (“significant impediment of efficient competition”). If the global worldwide turnover of the participating companies exceeds €150,000,000 and at least two of the participating companies realise, separately, turnovers in Greece of more than €15,000,000 each, the concentration is subject to obligatory prior notification to the HCC. Following the notification, the HCC can decide that the operation is not a notifiable concentration or does not raise serious doubts as per its compatibility with competition rules and, thus, allow the parties to proceed within one month from the filing of the notification. If the HCC estimates that the concentration raises serious doubts as per its compatibility, it will open the formal investigation procedure, which can last up to six months from the filing of the notification. The HCC can approve the notified transaction or disapprove it. It can also subject its approval to conditions in order to assure the compliance of the participating undertakings to the commitments they have proposed during the procedure.

## 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?

Basically, the acquisition of interests in the gas sector is not subject to any special prerequisites. However, according to article 11 of Directive 2009/73/EC (OJ L 211/94 of 14.8.2009) and article 65 of Law 4001/2011, a special certification procedure is applied in case a third (outside of the EU) country undertaking acquires control of a Transmission System in Greece, as in all EU Member States.

### 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 main influence derives from the quality of the country as an EU Member State and secondary sectoral EU legislation: in the oil sector, the main law concerning the upstream production of oil, Law 2289/1995, as amended by Law 4001/2011, transposed the EC Directive 94/22/EC. In the gas sector, Law 4001/2011 transposed into Greek legal order the requirements of the so-called European third package (Directive 2009/73/EC).

## 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.

In the upstream hydrocarbons sector, according to article 10 paragraph

13 of Law 2289/1995, as amended by article 162 paragraph 5 of Law 4001/2011, any dispute arising from the application of the Law shall be settled by an arbitral court according to Law 2735/1999 or any other recognised system of international arbitration such as the International Chamber of Commerce (ICC), the London Court of International Arbitration or the Arbitration Institute of the Stockholm Chamber of Commerce. In the gas downstream sector, article 37 of Law 4001/2011 introduced an arbitration procedure organised under the auspices of the RAE for disputes between energy companies and between energy companies and eligible customers. The deferral to this arbitration proceeding is subject to the written consent of the disputing parties. Furthermore, the Code of the NGTS contains special provisions for the amicable settlement and the deferral to an expert of the disputes arising between Users and the Manager of the NGTS, which require the prior consent of the parties. If the dispute pertains, the parties may defer the case to an arbitration according to the Civil Procedure Code.

### 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 of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and duly ratified said Convention (Law 4220/1961 (GG A 173/1961)). Greece is also a signatory of the ICSID Convention. The Convention has been ratified by Compulsory Law 608/1968 (GG A 263/1968). Greece deposited its ratification instrument on 21.04.1969. The Convention entered into force for Greece on 21.05.1969.

### 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)?

The execution of judicial judgments or arbitral awards is possible against the Hellenic Republic for the assertion of financial claims, as per article 4 paragraph 1 of Law 3068/2002. The privilege of the Hellenic Republic lies on the fact that the public property of the Greek State may not be confiscated or otherwise be the basis for the execution of court decisions, as it is deemed to serve the purposes of public interest.

### 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?

There are no cases to report.

## 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.

Two interventions of the HCC in the energy sector contributed significantly to the effort to liberalise the market:

In the oil downstream market, the HCC, by its Decision 602/2015, accepted the commitments of the main trading companies and

cleared the long-term downstream contracts they had with the service stations' operators by imposing corresponding amendments of the terms of the contracts. This decision contributed to the legal certainty and the efficient operation of the downstream oil markets to the benefit of the final consumers.

In the gas sector, with several decisions (Decision 551/VII/2012, Decision 589/2014, Decision 596/2014, Decision 618/2015 and

Decision 631/2016), the HCC obliged, *inter alia*, the incumbent operator (Public Gas Corporation – DEPA) to supply specific quantities of gas to the wholesale market via yearly and trimestral auctions. The HCC monitors the conditions of these auctions, contributing importantly to creating a more competitive wholesale market in Greece.



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