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## **“The need for Regulatory cooperation”**

### **1. Background**

Bulgarians and Greeks have the longest history of neighbourly relations in the Balkans, dating back to the 7<sup>th</sup> century. Bulgarians and Greeks are citizens of the European Union, Bulgaria and Greece are actively participating in the Energy Community of SEE. A joint working group on matters of bilateral interest in the energy field has been set up at the Ministerial and energy experts' level and leads our two countries to a common future of energy security, multiple energy sources and close energy cooperation.

The gas and electricity systems of Bulgaria and Greece are already interconnected. Greece and Bulgaria are partners in major natural gas and oil transport plans of strategic importance for the two countries, for the SEE region, as well as to other parts of the EU and, also, to energy suppliers in Eurasia in the east. A new 400 KV electricity interconnection from Maritza, Bulgaria, to Nea Santa, Greece is progressing and shall increase the import and export capability of both systems.

The geography of the Balkans lays the region open to movement to and from three continents. The position of our countries is of particular significance to that.

### **2. The EU Energy liberalization process and the 3<sup>rd</sup> Legislative Package**

In the European Union, the mainstay of achieving the energy policy objectives of energy security of supply, environmental protection and competitiveness of the EU economy is the internal energy market. A market that works as efficiently as possible to ensure that energy reaches the consumers, wherever they are, with the proper quality and at an affordable price. For more than 10 years already the EU has developed a succession of unique sets of rules and regulations aiming to liberalize energy markets in the Member States, while respecting public service obligations and to remove barriers for cross border trade of electricity and gas, thus creating the largest regional competitive market for gas and electricity all over the world.

The 2<sup>nd</sup> energy liberalization package, which comprises the Directives of 2003 and the corresponding electricity and gas Regulations for the management of

interconnection capacity already require for regulators to cooperate on a number of issues. Two examples

The European Commission initiated last year infringement procedures against both our countries, as well as a number of other EU MS, for not applying in a proper way various provisions of the Regulation 1228/2003 and its Congestion Management Guidelines. It is characteristic that the letters sent by the Commission in a way address directly the National regulatory Authorities as the Regulation imposes direct obligations on the regulators. Certain of these provisions refer to the performance of the respective national Transmission system operator and as such, let's say, they constitute an internal responsibility of the TSO and the monitoring regulator, but other provisions require the development and application of regionally coordinated mechanisms which are monitored by the regulators acting jointly within their respective regional regulatory committee. In the case of the SEE Electricity Region this is the Energy Community Regulatory Board and its relevant working groups.

This is an example of a legal requirement for the NRAS to consult, cooperate and take decisions at the regional and not the national level. Under the 3<sup>rd</sup> package this regional aspect is further pronounced.

Another example from the gas sector, is the examination and the regulatory decision to grant an exemption to a new infrastructure project under the gas Directive which also requires the cooperation of the respective NRAs while under the 3<sup>rd</sup> package the opinion of the Agency for the Cooperation of Energy regulators (ACER) shall be also required prior to the Commission giving its Opinion.

The 3<sup>rd</sup> Package of community legislation for energy markets liberalization that came in force last September aims to remove barriers and gives new impetus towards the creation of the internal energy market. At the same time its proper implementation shall enable much needed investments both upstream and downstream including very high investments for the renovation, strengthening and expansion of the EU electricity and gas networks to maintain or increase capacity, integrate new technologies and fuels, and facilitate imports and cross border trade.

National Regulatory Authorities are given new competences, their independence is strengthened, their monitoring and enforcement powers are enhanced.

The regional approach which paves the way towards a competitive internal energy market is pronounced under the third package. Its proper implementation, requires the close and effective cooperation of the regulators both bilaterally, also within their respective regions and, at the top, within the new community institution, the Agency for the Cooperation of Energy

Regulators (the ACER). It also requires Regulators to be empowered with the necessary decision powers for cross border issues. It is important to note that the ACER has an important role on the development of the Framework Guidelines that finally lead to technical codes drafted by the European Networks of Transmission System Operators (ENTSO-E for electricity and ENTSO-G for gas), and approved by the ACER, that have to be followed by the individual TSOs. Also the ACER has decision powers on certain cross border issues, including for cases submitted to it by involved NRAs.

The timely and proper transposition of the provisions of the two Directives and the three Regulations, that constitute the 3<sup>rd</sup> Package, shall be closely monitored by the European Commission which has stressed that, in particular because of the regional dimension of this legislation, delayed or not adequate or appropriate transposition cannot be afforded. As the NRAs constitute independent administrative authorities established following the provisions of community legislation and are directly obliged to implement, certain of the provisions of the 3<sup>rd</sup> Package, as for example is the case with the Regulations, we must alert our governments on the relevant issues and the need to act timely. The deadline for the transposition, the 3<sup>rd</sup> of March 2011, is fast approaching.

### **3. Energy security of supply**

Energy security is one of the great challenges facing the world today. It is not only a European challenge, it is a global challenge. The task for assuring energy security is unlikely to become easier, as the prospect for the global energy market is one of growing imbalances between supply and demand. At the same time in recent years the link between energy security and broader economic security has come to the fore.

The importance of the bilateral / regional cooperation on security of supply issues became evident at the gas supply crisis of January 2009. In our neighbourhood the unloading of LNG supplies to the Revithoussa terminal enabled the transport through reverse flow operation of the Bulgaria-Greece interconnection of much needed gas to Bulgaria. This is not only an example of community solidarity but also an evidence of the importance of the regional dimension of security of supply, as well as of the flexibility offered by interconnected appropriate infrastructure, such as LNG terminals - reverse flow capability of pipeline systems - gas storage facilities. At the same time we must note that to take advantage of the available infrastructure the appropriate and duly harmonised regulatory framework must be in place.

Following the January 2009 crisis two important agreements were concluded in July 2009. The first was an MOU between the Bulgarian Energy Holding and DEPA S.A., of Greece, and Edison International Holding BV, of Italy. The BEH will participate with 50 percent in a common venture, which will build, own and operate a gas connection between Greece and Bulgaria. For this IGB

160-km long pipeline (Komotini, Greece Stara Zagora, Bulgaria) with annual transport capacity of 3-5 bcm, the EU shall provide €45 million out of an estimated construction cost of €120 million. It has been recognised as a priority project of community interest for security of supply.

The second contract is between the BEH and Hellenic Gas Transmission System Operator (DESFA S.A.) and involves partial use of the capacity of the Revithoussa LNG terminal in Greece. Furthermore the Bulgarian Energy Holding announced that it will seek funds to increase the capacity of the gas storage facility "Chiren".

At the same time Romania agreed to promote gas connection with both Bulgaria and Hungary so that the Greek-Bulgarian, Bulgarian-Romanian and Romanian-Hungarian pipelines, all three co-financed by the EU, may be treated as a single system. Combined with the diversification of supplies provided by the Greek LNG terminal and the storage capabilities in Romania and Bulgaria this will greatly improve their security of gas supply, enhance cooperation between the four countries and strengthen their geostrategic position. In addition the reverse flow capability (Italy to Greece)- of the planned Poseidon submarine pipeline part of the ITGI, will further improve security of supply for the region.

The need for regional cooperation including regulatory cooperation is widely recognized and its legal implementation constitutes the basis of the Regulation for gas security of supply, currently under discussion at the European Parliament and the European Council. There are provisions to harmonize to the extent necessary the rules at the EU level, such as setting in Europe a common security of supply standard in terms of crisis levels the system has to cope with, and ensure the security of supply at the regional level, Bulgaria, Romania and Greece constituting such a Region. The cooperation is both for the ex ante phase, development of a regional plan, and for the time of the eventual crisis. Again, the cooperation of the NRAs involved is not only obligatory but also very important. The required cooperation cannot be restricted to the development and monitoring of the crisis plan. The harmonization of various rules for market structure and functioning as well as of Third Party Access rules and procedures in the Codes are also necessary. This shall not only improve security of supply but shall also reduce the cost for security of supply to the countries and their consumers. In addition new infrastructure investments may be required and for that the regulatory intervention also includes a joint decision on the cost allocation and its recovery. These investments shall also increase market liquidity and promote competition.

#### **4. Cooperation within the Energy Community**

The Energy Community Treaty signed on 25 October 2005 in Athens by the EU and all the Western Balkans, and entered into force on 1st July 2006, was a major step in connecting the Southeast European countries and bringing them together closer to the EU. The core objectives of the Treaty, include the creation of regional markets for electricity and gas and their integration with the EU energy market, facilitation of investments, competition and enhanced energy security of all participants through their co-operation and growing trade, harmonization of market rules and operating principles, including standards of environmental protection.

While limited in scope to energy matters, the Treaty represents a significant systemic development for EU policy in South East Europe. Being multilateral between the EU and all the Western Balkans equally at the same time it overcomes the delays and fragmented and non harmonised approach which characterise the development of bilateral relations between the EU and 3<sup>rd</sup> countries. It involves legally binding compliance of all Contracting Parties with the EU *acquis* in the energy sector, following in a way the model of the European Economic Area. The Treaty establishes an institutional structure, with a separate secretariat in Vienna and the Energy Community Regulatory Council, the ECRB, in a way preceding the establishment of the ACER.

The key objectives of the cooperation of the energy regulators within the ECRB is to support the harmonised development of regulatory rules in the EnC. Streamlining regulatory measures and providing a stable regulatory environment is important in order to achieve the core objectives of the Treaty, in this context the main effort relates to cross border trade and transmission/transport of electricity and gas, facilitation of new investments in electricity and gas infrastructure (e.g. licensing, incentives including tariff rules, exemptions, regulatory role in gasification of the region). Special focus is also on customer protection in regulatory rules, and on regulatory instruments for addressing vulnerable customers and energy poverty. Last but not least it is important to develop joint training programs for regulators and national administrations on best regulatory practices. Such programs may also cover other countries aspiring to join the Energy Community as is the case of the Ukraine where a very successful twinning programme is on going for the implementation of the Community *acquis* on gas, with the participation of the Italian, Greek and Romanian regulators.

It is obvious that the developments under the ECT are of immediate interest and have direct impact for Bulgaria, Greece, Romania, Slovenia, Hungary even for Austria and Italy, since Italian companies are interested to establish interconnections with the western Balkans. To this effect we coordinate our work under the EnC WG of the Council of European Regulators, while the

TSOs of the interconnected systems of SEE have formed a regional group under the Market Committee of ENTSO E to coordinate their activities.

In conclusion the cooperation and coordination of the Bulgarian and Greek energy regulatory authorities need to be strengthened. Regulatory cooperation is necessary not only regarding the operation of the existing interconnections of our electricity and gas systems, and cross border trade, but also for regulating the construction and operation regime of the planned new infrastructure projects, that will enhance security of supply, improve market liquidity and competition.

At the regional framework also, considering the fact that Greece and Bulgaria belong to the same Electricity Region under the Guidelines of the Electricity Regulation. Also considerable regulatory work is ongoing in the frame of the SEE Energy Community Regulatory Board in particular regarding the development of harmonized rules for regional electricity and gas markets in SEE connected to the respective markets of neighboring EU regions.

Within the EU both authorities participate in multilateral regulatory institutions of European dimension, the European Regulators for Electricity and Gas (ERGEG) and the Council of European Energy Regulators (CEER), and even more important our participation to the new EU institution the Agency for the Cooperation of Energy Regulators (ACER), [the Regulatory Board of the ACER shall have its inaugural meeting next Tuesday the 3<sup>rd</sup> of May].

As a closing statement please allow me to quote Traian Stoianovich a renowned historian born in the Balkans and for more than half a century teaching in American and French universities world history. In his introduction to his magisterial work *Balkan Worlds: The First and Last Europe* a book that has been commented by the reviewers as firing the mind while it engages the heart, professor stoianovitch wrote "This book depicts the Balkans as an integral part of the first Europe. Their exclusion from the new Europe and the organization of the new Europe on the basis of money and power rather than culture may result, in fact, in the suicide of Europe itself."