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The International Comparative Legal Guide to:

Oil & Gas Regulation 2019

14th Edition

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

Published by Global Legal Group, in association with Ashurst LLP, with contributions from:

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Email: info@glgroup.co.uk
URL: www.glgroup.co.uk

GLG Cover Design
F&F Studio Design

GLG Cover Image Source
iStockphoto

Printed by
Ashford Colour Press Ltd
January 2019

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ISBN 978-1-912509-53-9
ISSN 2051-3348

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EDITORIAL

Welcome to the fourteenth edition of *The International Comparative Legal Guide to: Oil & Gas Regulation*.

This guide provides corporate counsel and international practitioners with a comprehensive worldwide legal analysis of oil and gas regulation.

It is divided into two main sections:

Two general chapters. These are designed to provide readers with an overview of key issues and developments affecting oil and gas regulation.

Country question and answer chapters. These provide a broad overview of common issues in oil and gas regulation in 28 jurisdictions.

All chapters are written by leading energy lawyers and industry specialists and we are extremely grateful for their excellent contributions.

Special thanks are reserved for the contributing editors Philip Thomson and Julia Derrick of Ashurst LLP for their invaluable assistance.

Global Legal Group hopes that you find this guide practical and interesting.

The *International Comparative Legal Guide* series is also available online at www.iclg.com.

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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.

In 2016, gross inland consumption (production + imports – exports + storage variations) of natural gas in Croatia amounted to 2.17 Mtoe, whereas about 1.37 Mtoe thereof was covered by domestic production of natural gas [<https://ec.europa.eu/energy/>, Statistical Pocketbook 2018, page 196]. At the moment, Croatia is not completely dependent on the import of natural gas because about 48.2 per cent of natural gas supplied in 2016 was covered by domestic production from fields in the Pannonian basin and from offshore fields in the North Adriatic. The remaining demand was covered by imports of natural gas [Annual Energy Report for 2016 of the Croatian Ministry of Environment and Energy, Energy in Croatia 2016, page 130, available at www.mzoip.hr/doc/energija_u_hrvatskoj_2016.pdf]. In 2017, the entry of gas into the transmission system reached 32.348 kWh, out of which 11.193 kWh (34.6 per cent) originated from domestic production, 17.956 kWh (55.5 per cent) from imports and 3.199 kWh (9.9 per cent) from the underground gas storage facility PSP Okoli (UGS Okoli) [Annual Report 2017 of the Croatian Energy Regulatory Agency, page 128, available at www.hera.hr]. Due to the continuous decrease in domestic production, Croatia's dependence on gas imports is expected to grow significantly in the future.

In the Croatian gas and oil industry, the key market player is INA-INDUSTRIJA NAFTE d.d. (INA), a vertically integrated company 49.08 per cent owned by MOL Hungarian Oil and Gas Plc., 44.84 per cent owned by the Republic of Croatia and 6.08 per cent owned by institutional and private investors [www.ina.hr]. As regards the ongoing INA-MOL dispute, please see question 13.2 below. At the moment, INA is the only producer of natural gas in Croatia.

Although the Croatian gas market has legally been liberalised since 1 August 2008, the first signs of *de facto* opening of the market have occurred in the gas season 2012/2013 following the removal of a price cap for gas supply to eligible customers (but only in relation to non-household customers), and new wholesale suppliers entering the market. INA (through its affiliated company PRIRODNI PLIN)

in its capacity as the major wholesale natural gas supplier, and also an importer of natural gas, continued to dominate the gas supply market with a market share of nearly 68 per cent until 31 March 2014. In 2015, INA's market share dropped down to 22.7 per cent, and two new important players in their field of gas supply are HEP Group companies with a market share of 43.2 per cent and PRVO PLINARSKO DRUŠTVO d.o.o. (PPD) with a market share of 22.7 per cent.

On 1 April 2014, the State-owned electricity company Hrvatska elektroprivreda d.d. (HEP) was appointed the new supplier on the wholesale market in Croatia, taking over the similar role of 'supplier of public suppliers' from a procurement entity PRIRODNI PLIN. In the transitional period, HEP (through its affiliated company HEP-Opkrba plinom d.o.o.) remains the key wholesale gas supplier to other Croatian suppliers with PSOs for the needs of household customers until 31 March 2019. During this period, the price at which HEP then sells gas to other PSO suppliers has remained regulated. In addition, HEP has been awarded 60 per cent priority booking storage capacity with the UGS Okoli.

The new Croatian Gas Market Act (ZTP) [*Zakon o tržištu plina*, Official Gazette no. 18/18] came into force on 3 March 2018. Despite efforts to open up the Croatian gas market, in 2015 and 2017 the European Commission initiated two distinct infringement proceedings against Croatia for non-compliance with the above Directive. Therefore, it was necessary to make changes to the regulatory framework for the Croatian gas market in the segment for households, specifically regulating the rights and obligations of gas market participants, the duties and powers of the national regulatory authority, the mode of booking gas storage capacity, the price-setting mechanism for gas supply as a public service, the designation of a supplier under public service obligation (PSOs) and of a supplier of last resort (SoLR), and the setting of transparent conditions for public tenders to be launched on the gas market (see question 14.1 below).

Gas transmission, distribution and storage of natural gas are regulated energy activities performed as a public service. The ZTP provides for a new unbundling regime with the following three models: (i) the ownership unbundling model; (ii) the independent system operator (ISO); and (iii) the independent transmission operator (ITO). However, the legal unbundling process of the activities related to gas transmission and gas storage has already been carried out.

Domestic transmission lines are owned and operated by the 100 per cent State-owned company PLINACRO d.o.o., which was separated from INA in 2002. In 2007, PLINACRO was designated as the transmission system operator (TSO) for a period of 30 years. In line with the ZTP, PLINACRO still remains to be certified as

an ownership unbundled TSO. The gas production fields of the Pannonia and North Adriatic, the UGS Okoli, 35 distribution systems and 20 final customers are connected to the transmission system [Annual Report 2017 of the Croatian Energy Regulatory Agency, page 113, available at www.hera.hr]. The Croatian gas transmission system is 2,693 km long and has been continuously expanded in recent years [www.plinacro.hr]. Under the previous PLINACRO's Plan for the Development, Construction and Modernization of the Gas Transmission system of the Republic of Croatia in the period 2002–2011, the regional gas pipeline network Lika – Dalmacija from Bosiljevo to Split was completed in May 2013. Although PLINACRO's expanded gas pipeline network now covers around 95 per cent of the Croatian territory, the distribution system and gas consumption do not follow the development of the transmission system. In December 2017, a new PLINACRO's Ten-Year Development Plan of the Croatian Gas Transmission System in the period 2018–2027 [Ten-Year Plan, *Desetogodišnji plan razvoja plinskog transportnog sustava Republike Hrvatske 2018.-2027.*, available at www.plinacro.hr/UserDocsImages/dokumenti/Desetogodi%C5%A1nji%20plan%20razvoja%20PTS%202018-2027.pdf] was approved by HERA. The current gas supply forecasts indicate the need for further transmission capacity and significant investment in the construction of new parts of the gas transmission system with regard to its integration into new strategic supply projects. Therefore, the two most important projects under the Ten-Year Plan are the planned construction of the LNG terminal on the Island of Krk in the North Adriatic and the Ionian-Adriatic Pipeline (IAP). The IAP project intends to connect the Croatian and Albanian pipeline system with the Trans Adriatic Pipeline (TAP) [TAP is part of the EU-designated Southern Gas Corridor with a length of 800 km, running from Greece to Italy, via Albania and the Adriatic Sea.] The total gas pipeline length from Croatia (Ploče) to Albania (Fieri) is 540 km and has an annual pipeline capacity of 5 billion m³/year. This is a strategically important project, the implementation of which will enable the creation of a new energy corridor for the region of South-East Europe, with the aim of establishing a new supply of natural gas from new sources – the Caspian and Middle Eastern regions. The IAP project has been included in the list of EU Projects of Common Interest (PCI).

Currently, two cross-border interconnections in Croatia exist, those being (i) interconnection Dravaszerdahely–Donji Miholjac (Hungary–Croatia), and (ii) interconnection UMS Rogatec (Slovenia–Croatia). Please note that gas can only be imported from Slovenia and Hungary to Croatia. In this context, the Ten-Year Plan also addresses the problem of the security of supply, N-1 criterion and bidirectional flow at the interconnections. Therefore, and to avoid possible physical congestion in the gas pipeline network, the centrepiece of the Ten-Year Plan is projects for the construction of compressor stations and new interconnection in the direction of Lučko–Zabok–Rogatec (Slovenia) [PLINACRO's Ten-Year Plan, pages 53–56]. In addition, the Ten-Year Plan anticipates projects for connecting the Croatian gas transmission system to the gas transmission systems of other neighbouring countries (e.g. Bosnia and Herzegovina, Serbia and Montenegro). A number of new planned projects have been included in the EU PCI and Projects of Energy Community Interest list (PECI).

In 2017, there were 35 active gas distribution operators in Croatia, among which the two most important are GRADSKA PLINARA ZAGREB d.o.o. and HEP-PLIN d.o.o. The total length of the gas distribution network in Croatia at the end of 2017 was 19,091 km.

The only underground natural gas storage facility in Croatia is the UGS Okoli located near the city of Sisak with a total gas storage capacity of 553 million m³. The gas storage operator is PODZEMNO SKLADIŠTE PLINA d.o.o. (PSP) [www.psp.hr]. This company

was legally unbundled from INA and bought by the State-owned PLINACRO in 2009. The gas storage operator PSP continues to expand the UGS Okoli to increase gas storage capacity, as well as to decrease negative environmental impact. Moreover, the main investment over the mid-term concerns the planned construction of a small underground gas storage facility in Grubišno Polje.

Currently, no LNG facility exists in Croatia. Perhaps one of the most important projects in the gas sector concerns the planned construction of the floating LNG terminal on the Island of Krk in the North Adriatic with a capacity of 2 billion m³/year (LNG Terminal). This would open a cross European North-South corridor and improve the natural gas supply security of the region. The planned LNG regasification facility has been given PCI status. On 29 October 2014, the project has been included in the indicative list of key energy infrastructure eligible for financial support under the Connecting Europe Facility (CEF) Energy 2014 programme. Under the Decision dated 16 July 2015 of the Croatian Government, the LNG Terminal project has been also designated as a project of strategic importance to the Croatian State (PSI). In June 2016, the Croatian Government adopted a decision to speed up the preparation and implementation of the first phase of the LNG project that involves construction of the floating storage and regasification unit (FSRU). At the same time, LNG Hrvatska d.o.o. (LNG Croatia) [www.lng.hr] (with HEP and PLINACRO each holding 50 per cent of the equity shares thereof) was given the status of the project developer. From March 2017, preparation of project and permitting documentation and activities related to procurement of FSRU are under way for the construction of the floating LNG terminal [www.lng.hr/en/news-details/floating-lng-terminal-implementation-kick-off-68]. The Financing Agreement for the construction of the first phase of the LNG project under the CEF was signed at the Energy Council of 18 December 2017 [<https://ec.europa.eu/inea/en/connecting-europe-facility/cef-energy/projects-by-country/croatia/6.5.1-0018-hr-w-m-16>]. According to the most recent publicly available information, the procurement of Engineering, Procurement and Construction (EPC) of a jetty with the auxiliary facilities and connecting high-pressure gas pipeline for the import LNG terminal is still pending [www.lng.hr/en]. On 9 November 2018, LNG Croatia announced that it had selected Golar Power Limited as preferred bidder in the procurement procedure for delivery of the FSRU with the provision of FSRU operation and maintenance services. Golar Power Limited offered a new conversion of the existing LNG carrier to an FSRU vessel with a value of EUR 159.6 million. The Open Season phase for customers who could book the capacity of the LNG terminal on a long-term period are currently pending, and the deadline for closing the second round of the Open Season procedure has been postponed until 20 December 2018 [<http://www.lng.hr/en/open-season>]. The final investment decision is to be taken depending on the outcome of this process. According to current plans, the LNG Terminal is planned to be operational in 2021.

As regards projects allowing gas to flow from the Croatian LNG terminal to neighbouring countries, the phased development of the LNG terminal and gas pipeline Zlobin–Bosiljevo–Sisak–Kozarac–Slobodnica has been included in the updated EU PCI list as of 18 November 2015 [https://ec.europa.eu/energy/sites/ener/files/documents/5_2%20PCI%20annex.pdf].

Croatia has introduced the entry-exit model and a virtual trading point (VTP) as of 1 January 2014.

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

Croatia's primary energy supply is dominated by liquid fuels [Annual

Energy Report for 2016 of the Croatian Ministry of Environment and Energy, Energy in Croatia 2016, page 44]:

- Liquid fuels – 32.3 per cent.
- Coal and coke – 7.9 per cent.
- Natural gas – 22.5 per cent.
- Electricity – 4.9 per cent.
- Hydro Power – 16.2 per cent.
- Heat – 0.2 per cent.
- Fuel wood – 12.9 per cent.
- Renewables – 3.1 per cent.

The above data shows that the share of natural gas in the consumption of Croatia's primary energy (22.5 per cent) is exceptionally significant. Croatia is still covering a larger part of its needs by domestic production (40–45 per cent), primarily because the consumption of gas has significantly decreased over the last few years. However, future supply forecasts, and the expected moderate increase of consumption, indicate that imports of larger gas volumes will be required [PLINACRO's Ten-Year Plan, page 6].

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

Domestic natural gas production is performed by INA. INA reported their reserves at the end of 2016 at 98 million boe of natural gas. About 48.2 per cent of total domestic demand in 2016 was covered by domestic production from 17 onshore fields in the Pannonian basin and three offshore exploitation areas in the North Adriatic (see question 1.1 above) [Annual Energy Report for 2016 of the Croatian Ministry of Environment and Energy, Energy in Croatia 2016, page 130]. In 2016, the total domestic production of natural gas was 1,647.2 million m³.

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

Data of the Energy Balances of Natural Gas for 2016 shows that the total export of natural gas in 2016 was 389.4 million m³ [Annual Energy Report for 2016 of the Croatian Ministry of Environment and Energy, Energy in Croatia 2016, page 137]. LNG is not exported from Croatia.

2 Overview of Oil Sector

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

The exploration, production and refining of crude oil, and most of the trade in oil derivatives and LPG is carried out by INA Group companies. Crude oil is produced in 34 oil fields, and gas condensates in nine gas condensation fields [Annual Energy Report for 2016 of the Croatian Ministry of Environment and Energy, Energy in Croatia 2016, page 103].

INA operates two oil refineries and one lubricant products plant. Processing of oil and production of oil products is carried out in the Oil Refinery Rijeka located in Rijeka (Urinj), next to the Adriatic Sea, with a total of 4.5 million tonnes of annual crude oil processing capacity or 90,000 bbl/day, and in the Oil Refinery Sisak, close to the domestic oil fields and in the centre of Croatian market, with a total of 2.2 million tonnes annual crude oil processing capacity or 44,000 bbl/day. In addition, INA operates the Lube Refinery Zagreb, where

lubricants are produced [available at www.ina.hr; Annual Energy Report for 2016 of the Croatian Ministry of Environment and Energy, Energy in Croatia 2016, page 103]. In the last few years, INA carried out the project of the refinery modernisation in Rijeka and Sisak in order to comply with EU requirements and standards.

Transportation of oil through oil pipelines in Croatia is performed by Jadranski naftovod d.d. (JANAF) [Ownership structure of JANAF: 37.26 per cent owned by the State Office for State-owned Property Management/Croatian Pension Fund; 26.28 per cent owned by the Croatian Restructuring and Sale Centre; 14.97 per cent by Ministry of State Assets; 11.80 per cent owned by INA; 5.36 per cent owned by HEP; and 4.33 per cent owned by institutional and private investors.] The JANAF oil pipeline was completed in 1979 as an international crude oil transportation system with a designed capacity of 34 million tonnes/year and an installed capacity of 20 million tonnes/year. The crude oil quantities transported through the JANAF oil pipeline in 2017 amounted to 7.7 million tonnes. The JANAF oil pipeline system has a longitude of around 631.5 km with the following sections: Omišalj – Sisak, Sisak–Virje (with a section to Lendava in Slovenia) – Gola (Croatian-Hungarian border); and Sisak–Slavonski Brod (with a section to Bosanski Brod in Bosnia and Herzegovina) – Sotin (Croatian-Serbian border). Crude oil is imported by tankers through the sea terminal in Omišalj on the Island of Krk in the North Adriatic. However, the oil pipeline system can also be used to import oil by land. The biggest crude oil handling terminal located in Omišalj has a storage capacity of 1 million m³ for oil and 60,000 m³ for oil products. Other crude oil handling terminals are located in Sisak and Virje, with a storage capacity of 500,000 m³ in Sisak and 40,000 m³ in Virje. The submarine oil pipeline Omišalj – Urinj has a longitude of 7.2 km, with a submarine section of around 6 km, and connects the Omišalj Terminal with the INA's Oil Refinery in Rijeka. Oil derivatives terminal JANAF-Žitnjak is located in Zagreb with a storage capacity of 142,000 m³. The total storage capacity of the JANAF system amounts to 1.54 million m³ for oil and 202,000 m³ for oil products [available at www.janaf.hr; Annual Energy Report for 2016 of the Croatian Ministry of Environment and Energy, Energy in Croatia 2016, pages 104]. According to HERA's licence registry, a total of 21 companies are licensed as oil and oil products storage operators. Croatia has three ports which can receive oil and oil products: Omišalj; Zadar; and Ploče.

The JANAF-Adria pipelines project has been given PCI status and included in the updated EU PCI list as of 18 November 2015. The project involves the reconstruction, upgrade, maintenance and increase in capacity of the existing JANAF and Adria pipelines linking the Croatian Omišalj seaport, through Hungary, to the Southern Družhba pipeline in Slovakia.

The first LPG terminal in Croatia which is located some 35 km from Zagreb (Sv. Križ Začretje) was completed in 2009. The LPG terminal with 13 storage tanks (each 5,700 m³) is owned and operated by the company CRODUX PLIN d.o.o.

Currently, the construction of two new LPG and oil derivatives handling terminals with the total storage capacity of 273,000 m³ in the port area of Luka Ploče in the South Adriatic is under way. The terminal is being developed as the Adriatic Tank Terminal (ATT). In December 2014, the company PPD (now part of Energia Naturalis (ENNA) group) has signed a sub-concession contract to construct and operate the LPG and oil derivatives terminals. PPD has also signed a memorandum of understanding for development of these two terminals with the company VTTI, a provider of energy storage worldwide (co-owned by Vitol, one of the largest energy traders in the world, and MISC, a leading international shipping and maritime conglomerate). In September 2016, the first stage of ATT has been completed with the construction of 50,000 m³ of capacity terminal

for white petroleum products. Reportedly, the second stage of construction will ensure a capacity of more than 200,000 m³ for petroleum, as well as 60,000 m³ for the storage of LPG [www.enna.hr/en/the-port-of-ploce-t3]. This would open a new supply route for the LPG by sea.

The Croatian Mandatory Oil Stocks Agency (*Hrvatska agencija za obvezne zalihe nafte i naftnih derivata*; HANDA), which has been merged with the Croatian Hydrocarbon Agency (*Agencija za ugljikovodike*; AZU) in September 2017, is the entity responsible for the maintenance of the mandatory stocks of crude oil and oil products of the Republic of Croatia; it is also responsible for establishing the mandatory stocks in the quantity of the 90-day average daily consumption in the previous calendar year by 31 July of the current year.

The total number of fuel stations was some 843 in 2016, out of which some 387 petrol stations were owned by INA [Annual Energy Report for 2016 of the Croatian Ministry of Environment and Energy, Energy in Croatia 2016, page 105]. According to HERA's licence registry, there is currently a total of 47 oil products wholesalers in Croatia (e.g. INA, PETROL d.o.o., CRODUX DERIVATI DVA d.o.o., etc.), only one LPG wholesaler and retailer (INA), 12 LPG wholesalers and one company licensed for the road transport of crude oil, oil products and biofuels.

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

Consumption of liquid fuels represents the main energy source in Croatia. It is expected that in the long run, fossil fuel production will gradually decrease in favour of renewable energy sources. Nevertheless, it is expected that the share of liquid fuels in energy consumption in Croatia will continue to be very high in the upcoming period (also see question 1.2 above).

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

The production of domestic oil products is carried out by INA. Only about 19 per cent of domestic requirements for crude oil may be covered by domestic production of oil and condensates. The total production of crude oil in 2017 amounted to 667,000 tonnes of oil [Annual Report 2017 of the Croatian Energy Regulatory Agency, page 154]. Croatia, thus, is dependent on the import of oil. INA reported their proven reserves at the end of 2017 as 76 million bbl of oil. Crude oil production in 2017 amounted to 14.5 million boe/day and condensate production to 1.8 million boe/day [www.ina.hr].

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

Croatia does not export crude oil; it exports oil products. In 2017, about 81 per cent of the imported crude oil, 17 per cent of the domestic crude oil and 2 per cent of the domestic condensates were used as raw material for oil products production [Annual Report 2017 of the Croatian Energy Regulatory Agency, page 155]. The total production of oil products in 2017 amounted to 3.6 million tonnes of oil products. Nevertheless, the significant share of the oil products in the Croatian market originates from imports.

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.

Exploration and production of oil and natural gas reserves in Croatia is primarily regulated by the new Hydrocarbons Exploration and Production Act (ZIEU) [*Zakon o istraživanju i eksploataciji*, Official Gazette no. 52/18], which was put into effect on 14 June 2018. Besides, various bylaws are governing specific areas of the hydrocarbons sector.

The ZIEU provides a legal framework for the exploration and production of the hydrocarbons (oil, natural gas and gas condensates), geothermal energy, storage of natural gas and geological storage of carbon dioxide. The ZIEU also contains special provisions concerning the licensing and concession regimes applicable to exploration and production of hydrocarbons.

Following the transposition of the EU Offshore Safety Directive (Directive 2013/30/EU) into national law, the new Croatian Act on Safety of Offshore Exploration and Production of Hydrocarbons (ZSOIEU) [*Zakon o sigurnosti pri odobalnom istraživanju i eksploataciji ugljikovodika*, Official Gazette no. 78/15] entered into force on 25 July 2015, and became fully applicable as of 19 July 2018. The new offshore legal regime establishes a minimum set of rules for preventing major accidents in offshore oil and gas operations and limiting the consequences of such accidents. Following the adoption of the ZSOIEU, further implementing regulations and guidelines were made available on the website of the Coordination body/the Croatian Hydrocarbon Agency during 2017 and 2018 respectively (please see further below).

The Strategic Environmental Impact Assessment (SEA) must be conducted when exploration and exploitation of hydrocarbons are intended. Projects related to the production of oil and gas are subject to an Environmental Impact Assessment (EIA) and may also be subject to the Ecological Network Impact Assessment (ENIA). The EIA approval, issued under the EIA Regulation [*Uredba o procjeni utjecaja zahvata na okoliš*, Official Gazette nos. 61/14 and 3/17], has to be obtained prior to the issuance of the location permit.

On an administrative level, the competent authorities are, *inter alia*, the Ministry of Environment and Energy (*Ministarstvo zaštite okoliša i energetike*; MZOE) as the State administration authority governing the issuance of the Licences for the Exploration and Production of Hydrocarbons, the conclusion of the Agreements on the Exploration and Production of Hydrocarbons, the issuance of the Licences for the Production of Hydrocarbons, the building and use permits for petroleum facilities, etc., the Ministry of State-owned Property (*Ministarstvo državne imovine*; MDI) as the State administration authority managing State-owned land, MZOE as the State administration authority governing the EIA and ENIA process and the Ministry of Construction and Physical Planning (*Ministarstvo graditeljstva i prostornog uređenja*; MGPU) as the State administration authority governing the issuance of the location permits for the petroleum facilities.

In accordance with the ZIEU and the Act on Establishment of the Hydrocarbon Agency [*Zakon o osnivanju Agencije za ugljikovodike*, Official Gazette nos. 14/14 and 73/17], the Croatian Hydrocarbon Agency (*Agencija za ugljikovodike*; AZU) has been established in February 2014. The AZU provides operational support to competent administration authorities in the domain of exploration and production of hydrocarbons and permanent geological storage and it is responsible for, *inter alia*, the launching of a public tender process for the award of a licence for the exploration and production of hydrocarbons, supervision of the licensed activities as well as cooperation with investors, etc.

The ZSOIEU provides for the establishment of a special competent authority, so-called Coordination for the Safety of Offshore Exploration and Production of Hydrocarbons (*Koordinacija za sigurnost pri odobalnom istraživanju i eksploataciji ugljikovodika*; the Coordination body). The Coordination body shall be comprised of the representatives of the different State authorities, such as, *inter alia*, MZOE, AZU, the Croatian Register of Shipping (*Hrvatski registar brodova*; CRS), the Ministry of Maritime Affairs, Transport and Infrastructure (*Ministarstvo pomorstva, prometa i infrastrukture*; MMPI), the National Protection and Rescue Directorate (*Državna uprava za zaštitu i spašavanje*; DUZS) and the Agency for Explosive Atmosphere Hazardous Areas (*Agencija za prostore ugrožene eksplozivnom atmosferom*; Ex-Agency). In accordance with the Regulation on Coordination for the Safety of Offshore Exploration and Production of Hydrocarbons [*Uredba o Koordinaciji za sigurnost pri odobalnom istraživanju i eksploataciji ugljikovodika*, Official Gazette no. 74/17], the Coordination body was established in September 2017 [www.azu.hr/hr-hr/Koordinacija].

Currently, there are 60 production (also called exploitation) concessions of hydrocarbons (57 onshore and three offshore) in Croatia. With the aim of substantially expanding exploration and production activities in the upcoming period, the Croatian Government launched, on 2 April 2014, the first international offshore licensing round for the exploration of 29 blocks in the Adriatic Sea, covering approximately 36,823 km². Pursuant to Decisions of the Croatian Government as of 2 January 2015, a consortium of US-based Marathon Oil and Austria's OMV have been awarded seven offshore oil and gas exploration licences, the company INA obtained two licences, and a consortium of Italy's ENI and UK-based MEDOILGAS was granted one licence. However, following the withdrawal of the Marathon Oil/OMV consortium from the licensing round in July 2015, the Croatian Government revoked their respective licences. The offshore Production Sharing Agreement (PSA) with the remaining participants has not been signed yet.

Subsequently, the first international onshore licensing round for the exploration of six blocks across the Drava, Sava and East Slavonia regions, covering approximately 15,000 km², was opened on 18 July 2014 and closed on 18 February 2015. Pursuant to Decisions of the Croatian Government as of 3 June 2015, three companies have been awarded six onshore oil and gas exploration licences. Four licences were awarded to VERMILION ZAGREB EXPLORATION, a local unit of Canada-based energy group Vermilion. One licence was granted to INA, and one to Nigeria-based OANDO PLC. The PSA for five onshore exploration blocks awarded to Vermillion, i.e. INA, was signed in June 2016.

Following the adoption of the new ZIEU, the Croatian Government launched, on 31 October 2018, the second international onshore licensing round for seven exploration blocks across the Drava, Sava and Northwest Croatia regions, which is opened until 30 June 2019 (further information available at www.azu.hr).

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?

Oil and natural gas are mineral resources of special interest to the State which are in the possession of the Republic of Croatia. The ZIEU allows investors to apply for rights to explore and extract oil and natural gas reserves. However, only companies having their seat or a branch-office in Croatia or in another state and which are registered with the competent authority to perform hydrocarbons exploration and production, and which also comply with further statutory requirements set out in Art. 17 of the ZIEU (e.g. absence of criminal convictions, payment of all public duties, royalties, charges for the usage of forest land or agricultural land, absence of unlawful exploration and production activities, absence of any remediation liabilities related to the previous exploration and production activities, etc.), may be awarded a Licence for the Exploration and Production of Hydrocarbons and the Agreement on the Exploration and Production of Hydrocarbons within one single tendering procedure. The Licences and the PSA may be awarded either after a single tendering procedure or for the outstanding areas of the previous tendering procedure and in relinquished areas (Art. 14 of the ZIEU).

In addition, Art. 6 of the ZSOIEU lists the requirements to be considered when assessing the participants' technical and financial capability, including insurance and liability for potential economic damages. The ZSOIEU explicitly stipulates that the participant may be granted a licence only if it complies with all requirements set out in the ZSOIEU and relevant provisions of the EU law.

In accordance with the ZIEU, the State administration authorities competent for conducting the above-mentioned tendering procedure is the MZOE and the AZU in consultation with other competent authorities in case that exploration and production activities are to be carried out in specific areas (e.g. State-owned land, maritime domain, areas under special water regimes, etc.).

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).

As stated above (see question 3.2 above), the award of the Licence for the Exploration and Production of Hydrocarbons and the PSA is carried out within one single tendering procedure or in a separate administrative procedure for the outstanding areas which were subject to the previous tendering procedure and in relinquished areas. The public tendering procedure is launched on the basis of the decision of the Croatian Government. Prior to launching the formal tender procedure, AZU may organise a presentation in order to inform potential investors on hydrocarbons of their potential existence in certain Croatian regions.

The public tender must be published in the Croatian Official Gazette and in the EU Official Journal at least 90 days prior to the expiry of the set deadline for submission of bids. Tender specifications must be made available on the official website of the MZOE and AZU at www.azu.hr.

On the basis of a Licence for the Exploration and Production of Hydrocarbons, the investor obtains the right to explore hydrocarbons

and to the direct award of the Production Licence of Hydrocarbons in case the investor has concluded a PSA and provided that the investor duly fulfils all obligations from the concluded agreement.

The Licence may be granted for a maximum of 30 years and covers the exploration period of up to five years and the production period. The exploration period may be extended a maximum of twice for a period of six months in justified cases. The production period may be extended by the Government on the request of the investor, provided that it has been requested at least 12 months prior to the licence expiry.

In accordance with the ZIEU, the following agreements may be concluded between the Government and the investor: an exploration and PSA; or an agreement on the production of hydrocarbons. The draft agreement has to be part of the tender documentation. The mandatory terms of the agreement are set out in detail in Art. 29 of the ZIEU. In this respect, the new ZIEU includes a template of the PSA with royalty and applicable taxes (the template PSA). The ZIEU provides for the possibility to negotiate the above-mentioned agreement, but the comments and proposed amendments must be submitted by the investor until the set deadline for submission of bids. Following the negotiation phase, the agreement must be concluded between the Government and the investor within six months of the issuance of the licence.

In general, the investor pays all costs and bears the risk during the exploration phase of a project. The conditions and methods of reimbursement of expenditures linked to the exploration and production activities shall be regulated in the agreement. If oil and gas is discovered, the investor is entitled to recover its exploration costs. However, if there will be no production, the investor bears all the costs without the right to cost-reimbursement.

The petroleum operations may be carried out only within the exploration area (*istražni prostor*) and/or within the exploitation field (*eksploatacijsko polje*).

The Croatian Government has the power to revoke the Exploration and Production Licence in case of non-compliance with the terms and conditions of the licence and statutory requirements. Grounds for the revocation of the Exploration Licence are set out in detail in Art. 26 of the ZIEU.

For the construction and operation of petroleum facilities and installations, the building and use permit are required (Sec. IV Arts. 140–184 of the ZIEU).

The energy activities of gas production and natural gas production are also governed by the Gas Market Act (ZTP) and subject to licensing by HERA. Therefore, if the production (i.e. extraction) operations also include the delivery and sale of natural gas on the Croatian market, a licence for the performance of energy activity of natural gas production (*dozvola za obavljanje energetske djelatnosti proizvodnje prirodnog plina*) is also required. The licence for natural gas production may be issued for a minimum period of one year and a maximum period of 30 years. The general obligations and rights of a gas producer and a natural gas producer are set out in Arts. 13–14 of the ZTP.

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)?

Generally, the new ZIEU provides that the tender specifications may also impose the obligation of the National Oil Company to participate with the selected tenderer in the project in a percentage between 10 and 30 per cent. In this case, the Licence for the Exploration and Production of Hydrocarbons shall be issued in

appropriate proportions to the selected tenderer and the National Oil Company. The selected tenderer and the National Oil Company shall conclude a joint venture agreement (JVA) in the period of three months from the issuance of the licence, and prior to concluding the agreement. Accordingly, the draft of the JVA shall constitute an integral part of the tender specifications. Furthermore, the Croatian Government has exclusive ownership of the documentation and data in connection with the oil and natural gas development projects.

The template PSA stipulates that the Croatian State remains the sole owner of all petroleum produced, except as regards the contractor's entitlement to its share of production in accordance with the provisions of the PSA. However, there is no State participation in the PSA. In addition, the template PSA provides for the establishment of an advisory committee, as comprised of the representatives of the AZU and the investor, for the purpose of providing orderly advice and coordination of all matters pertaining to the petroleum operations carried out under the PSA.

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

The investor is required to pay fees and taxes (i.e. royalties) pursuant to the ZIEU, the Regulation on Fees for Exploration and Production of Hydrocarbons (UNIEU) [*Uredba o naknadama za istraživanje i eksploataciju ugljikovodika*, Official Gazette nos. 37/14 and 72/14] and the provisions of the PSA. Participants in the first offshore and onshore licensing round were required to pay an application fee in the amount of EUR 5,000, as well as to provide a bank guarantee for the bid bond in the amount of EUR 500,000.

Methods for setting the amounts and the ratio of allocation of the royalty and other fees for the exploration and production of hydrocarbons are set out in detail under Art. 51 of the ZIEU and the UNIEU respectively. The fees are established for (i) exploration and production of hydrocarbons, (ii) the storage of hydrocarbons in geological structures, and (iii) permanent disposal of gas in geological structures.

The fees for exploration and production of hydrocarbons consist of:

- **total fees**, which include: (i) a fee for the exploration area; (ii) a fee for the area of the established production field; (iii) a signature bonus for the agreement signed between the investor and the Croatian Government; (iv) a fee (royalty) for the produced quantities of hydrocarbons; (v) additional fees for the realised production (production bonus) of hydrocarbons; and (vi) administrative fees; and
- **share of the produced quantities of hydrocarbons**, which shall be expressed in percentage of the produced quantities of hydrocarbons belonging to the Republic of Croatia.

As regards the share of production, please see questions 3.3 and 3.4 above. In accordance with the ZIEU and the template PSA, the Croatian Government enjoys the pre-emption right to purchase the extracted hydrocarbons based on the market conditions depending on the method of production.

3.6 Are there any restrictions on the export of production?

As regards technical restrictions of the Croatian gas transmission system, please see question 1.1 above. In the event of a crisis, certain extraordinary measures (including import and export restrictions) can be taken on the basis of the Croatian Energy Act (ZE) [*Zakon o energiji*, Official Gazette nos. 120/12, 14/14, 95/15, 102/15 and 68/18] and other energy laws.

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

No specific currency exchange restrictions or restriction on the transfer of funds derived from production out of the jurisdiction can be determined in Croatian law. The template PSA stipulates that all transactions, payments and valuations made in currencies other than the currency of the Republic of Croatia shall be recorded in Croatian currency, the Kuna (HRK), at the exchange rate in effect at the time the transaction or valuation is made. The rate of exchange shall be established by reference to the middle rate published by the Croatian National Bank (*Hrvatska Nacionalna Banka*; CNB).

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

In accordance with the ZIEU, the rights from the licence and agreement may be transferred to a third party; however, the respective transfer is subject to prior approval of the Croatian Government. The Croatian Government cannot refuse the approval without justified reasons. It will be assumed that there is a justified reason for refusal of prior approval in case the investor fails to notify the MZOE of the intended transfer without delay. The MZOE must decide on the investor's application for prior approval within 30 days of receipt of the application. In addition, the Croatian Government has the pre-emption right to acquire a minimum of 10 per cent of the shares from the respective licence and agreement, either via a national SPV or via a legal entity proposed by the Government and which fulfils all statutory requirements for the award of the licence and agreement.

The transfer of rights from the licence and agreement which is carried out contrary to the rules set out in the ZIEU is null and void. As regards the offshore operations, Art. 6 of the ZSOIEU explicitly stipulates that the licensee may assign its rights and duties from a licence to another mining operator only if it complies with all requirements set out in the ZSOIEU and relevant provisions of the EU law.

As regards the assignment and change of control clauses in the PSA, both the ZIEU and the template PSA imposes an obligation for the Government's prior approval. A failure to comply with such obligation is specified as a ground for termination of the agreement.

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

In accordance with the ZIEU, the investor is obliged to provide the appropriate security or bank guarantee in relation to the exploration and/or production field restoration costs. Additionally, the investor is obliged to have a whole set of liability insurance policies set out in Art. 121 of the ZIEU which cover specific risks linked to oil and natural gas development and operation for the duration of the licence and agreement.

In addition, participants in the first offshore and onshore licensing round were required to provide the bank guarantee for the bid bond. Under the template of the PSA, the following types of financial security are required for oil and gas operations: (i) bank guarantee/performance bond for the works programme and parent company guarantee; (ii) insurance for bodily injury, property damage and other losses; (iii) decommissioning security during the exploration

phase and the setting up of a decommissioning fund and a bank escrow account for the deposit coverage in the set amount, etc.

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?

In accordance with the Concessions Act (ZK) [*Zakon o koncesijama*, Official Gazette no. 69/17], a pledge may be established over the rights from the concession contract, with prior approval of the concession grantor, only in favour of financial institutions to secure the claims of these institutions on the basis of the loan contract. Claims of financial institutions may relate solely to financial instruments acquired for the purposes of the concession contract execution, and shall not include any other claims that financial institutions have towards the concession holder on any other grounds.

Special regulations in connection with the pledge for security or the booking for accounting purposes of rights to develop oil and natural gas are stipulated in the draft PSA for both the first offshore and onshore licensing round. In accordance with the draft PSA, the pledge for security of rights to develop oil and natural gas is subject to prior approval of MZOE. The approval shall not be unreasonably withheld. The respective accounting and auditing procedure is specified in detail in the draft PSA.

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?

Apart from authorisations based on the ZIEU and the ZTP (see question 3.3 above), several other authorisations (of different authorities) may be required, depending on the specific project. Therefore, authorisations, e.g. according to the Croatian law on State property management, nature and environmental protection, physical planning and building, forest, agricultural land or water regime and maritime domain, etc., may be required (see question 3.1 above).

Further, the execution of the petroleum operations and the construction of petroleum facilities are subject to petroleum plans (*naftno-rudarski projekti*) (Art. 131 *et seq.* ZIEU). In addition, pursuant to the ZIEU, the licensee has to prepare and keep a set of obligatory documents for exploration and production works (e.g. a preliminary plan, development and production plan, supplementary development and production plan, well drilling project and simplified plan, study on hydrocarbon reserves, records on the reserves, etc.). The ZIEU also imposes special obligations of reporting to the competent authorities on the licensee.

In order to conduct simultaneous offshore hydrocarbons exploration and production activities, a special approval from the MZOE must be obtained in accordance with requirements set forth in the Ordinance on fundamental technical requirements, safety and security in the exploration and production of hydrocarbons from the Croatian seabed [*Pravilnik o bitnim tehničkim zahtjevima, sigurnosti i zaštiti pri istraživanju i eksploataciji ugljikovodika iz podmorja Republike Hrvatske*, Official Gazette no. 52/10].

In addition, the ZSOIEU requires that offshore hydrocarbons operations are conducted only by operators appointed by the licensee and approved by the Coordination body. The ZSOIEU provides for a list of mandatory documents to be adopted by the licensee and/

or operators (as an operating company appointed under the PSA between the Croatian Government and the licensee) and/or owners (as an entity responsible for a non-production installation) and submitted for prior approval to the Coordination body. These are, *inter alia*, the corporate major accident prevention policy, the safety and environmental management system applicable to the installation, a report on major hazards, the internal emergency response plan, a design notification (in the case of a planned production installation), a notification of a well operation, a description of the scheme of independent verification, etc. In addition, the report on major hazards is subject to review every three years (Art. 15 (9) and Art. 16 (8) of the ZSOIEU). In the event of 'material changes' affecting the original report on major hazards (as defined in Art. 4 (2) of the ZSOIEU), the operator or the owner will be required to prepare an amended report and to submit such amended report for prior approval to the Coordination body. Guidelines for the preparation and delivery of the above-mentioned documents are being made available at www.azu.hr/hr-hr/Koordinacija/Dokumenti.

It should be noted that the competent authorities (e.g. the Coordination body or the petroleum inspectorate within MZOE) have been given wide enforcement powers in relation to the preparation and carrying out of offshore operations, including the power to prohibit the operation or commencement of operations and to revoke the licences for exploration and production of hydrocarbons (Arts. 21–23 and 35–38 of the ZSOIEU).

As of 1 June 2016, operators and owners are required to provide detailed information and reports to both the Coordination body and the National Headquarter for Search and Rescue at Sea (MRCC) in accordance with a common data reporting format as set out in the Commission Implementing Regulation (EU) No 1112/2014.

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 the ZIEU, the movable and immovable property used in oil and natural gas development which can be separated without causing damage is the ownership of the investor who purchased such property. In case the investor already received recovery costs for such property, the Croatian State acquires the ownership over the respective property. In case of the licence revocation and/or termination of the agreement or the licence and/or agreement expiration, the immovable property or other fixed installation on the exploration and/or production field becomes the ownership of the Croatian State.

In addition, the investor is required to undertake all safety measures in order to prevent danger to people, property and the environment in the occupied areas, and also to notify, among others, the Petroleum Inspectorate and other competent State authorities thereof (Art. 109 of the ZIEU). If the Petroleum Inspectorate and other competent State authorities ascertain that the safety measures, environmental protection measures and restoration of the exploration and/or production field are sufficient, the investor can obtain a certificate in relation thereto, and thereafter a decision on the decommissioning of the production field and removal from the Registry of production fields. The competent authorities are empowered to prescribe safety measures.

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

The ZIEU and the new Ordinance on permanent disposal of gas in geological structures [*Pravilnik i trajnom zbrinjavanju plinova u geološkim strukturama*, Official Gazette no. 106/13], which came into force on 31 September 2013, provide a legal framework for gas storage in geological structures.

Art. 73 *et seq.* ZIEU provides a legal framework for storage of natural gas. A Licence for natural gas storage is required to store natural gas and subject to a tendering process. The petroleum operations with regard to exploring geological structures suitable for underground gas storage may be carried out exclusively on the basis of an Exploration Licence. The petroleum operations with regard to storing natural gas may be carried out exclusively on the basis of a Licence for natural gas storage. The award of the licence for natural gas storage and the conclusion of a natural gas storage contract are carried out within one single tendering procedure.

The storage of natural gas is carried out by the PSP (see question 1.1 above) pursuant to the ZTP and Storage Code [*Pravila korištenja sustava skladišta plina*, Official Gazette no. 50/18], which came into force on 9 June 2018. According to Art. 79 of the ZTP, access to the gas storage system is subject to the regulated third-party access regime. The access to storage can be refused under certain conditions: (i) lack of capacity; (ii) where access to the system would prevent a system operator from performing the PSO; or (iii) where access to the system would cause serious financial and economic difficulties to gas undertakings with regard to take-or-pay contracts concluded prior to a request for approval of access, which is subject to prior approval from the regulatory authority (HERA) (Art. 81 (2) of the ZTP). The refusal has to be notified in writing. The party seeking access to storage can file an appeal with HERA, if access to storage is refused. HERA has to find whether the prerequisites for refusal of access apply (within 60 days). Against the decision of HERA, no appeal is allowed, but the injured party may bring a claim before the competent Administrative Court.

Gas storage is a regulated energy activity performed as a public service. Exceptionally, Art. 7 of the ZTP provides that the energy activity of gas storage may be performed as a market activity, provided that the gas storage operator obtains a prior approval from HERA. According to Art. 7 of the ZTP, the criteria for issuing the approval of HERA is determined taking into account the level of competition in relation to energy activity of gas storage in the Republic of Croatia and the region as well as the issues of security of gas supply in the Republic of Croatia. HERA is required prior to issuing the respective approval to obtain prior opinion of the MZOE and the Croatian Competition Agency (*Agencija za zaštitu tržišnog natjecanja*; AZTN). So far, no such criteria for determining the access to gas storage system have been issued.

The gas storage tariff regime is based on HERA's Methodology for Determining Tariffs for Gas Storage [*Metodologija uvrđivanja iznosa tarifnih stavki za skladištenje plina*, Official Gazette no. 48/18], which came into force on 15 June 2018. On the basis of the methodology, in December 2016, HERA adopted the Decision on gas storage tariff rates for the second regulation period 2017–2021 [*Odluka o iznosu tarifnih stavki za skladištenje plina*, Official Gazette no. 122/16] for PSP, which entered into force on 1 January 2017.

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?

There are no special laws or regulations in connection with the exploration and production of unconventional oil and gas resources.

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).

As regards the Croatian gas market-opening process, please see question 1.1 above. According to the template PSA, the investor shall be required, on the request of AZU, to sell a set volume of its share of oil and/or gas to the Republic of Croatia if the Croatian Government's production share is insufficient to meet domestic supply requirements. In case of war or imminent expectation of war or grave national emergency, the Government may also request all or part of the oil and gas produced from the agreement area and require the investor to increase such production to the extent required.

Cross-border sales and deliveries of natural gas are transacted pursuant to bilateral agreements between the parties and the availability of cross-border capacity. Also, the Rules on the Gas Market Organisation [*Pravila o organizaciji tržišta plina*, Official Gazette no. 50/18], which came into force on 9 June 2018, and the new Transportation Network Rules [*Mrežna pravila transportnog sustava*, Official Gazette no. 50/18], which came into force on 9 June 2018, are applicable. In the event of a crisis, certain extraordinary measures (including import and export restrictions) can be taken on the basis of the ZE, the Decision on Plan of Interventions on Measures of Protection of Security of Gas Supply of the Republic of Croatia [*Odluka o donošenju Plana intervencije o mjerama zaštite sigurnosti opskrbe plinom Republike Hrvatske*, Official Gazette no. 78/14] and the Regulation on Criteria for the Acquisition of the Protected Customer Status in the Event of Gas Supply Crisis [*Uredba o kriterijima za stjecanje statusa zaštićenog kupca u uvjetima kriznih stanja u opskrbi plinom*, Official Gazette no. 65/15], which have been adopted in accordance with Regulation (EU) No 994/2010 on Security of Gas Supply. In addition, certain reporting/registration obligations to the CNB may also be required, depending on the specific transaction.

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.

As regards the obligation of the oil producer to supply the domestic market under the template PSA, please see question 4.1 above. Cross-border sales and deliveries of oil and oil products are transacted pursuant to bilateral agreements between the parties. In the event of a crisis, certain extraordinary measures (including import and export restrictions) can be taken on the basis of the ZE and the Act on Oil and Oil Derivatives Market (ZTNND) [*Zakon o tržištu nafte i naftnih*

derivata, Official Gazette nos. 19/14 and 73/17], which came into force on 20 February 2014. Generally, producers, importers and traders of oil and oil products have an obligation to report certain transactions to the MINGO according to the new Ordinance on Data Delivery by the Energy Undertakings to the Ministry [*Pravilnik o podacima koje su energetski subjekti dužni dostavljati Ministarstvu*, Official Gazette nos. 132/14 and 16/15], which came into force on 20 November 2014. In addition, certain reporting/registration obligations to the CNB may also be required, depending on the specific transaction. As regards the wholesale of oil products, see question 10.2 below.

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).

As regards ownership of transportation pipelines and storage facilities, please see questions 1.1 and 2.1 above. Gas transportation and storage of natural gas are regulated energy activities performed as a public service. Provisions on the operation of gas transportation pipelines and storage facilities can be found in the ZE, ZTP and the Transportation Network Rules, the General Conditions of Natural Gas Supply [*Opći uvjeti opskrbe plinom*, Official Gazette no. 50/18] and other gas-related regulations. PLINACRO, as the TSO, owns and operates the network of main transmission lines and regional gas pipelines by which domestic and imported natural gas are transmitted to exit measuring-reduction stations where the gas is delivered to gas distribution systems and to final (industrial) customers directly connected to the transmission system. The operation of a gas transmission network is divided in five regions (eastern, central, northern, western and southern Croatia). The TSO has to comply with the duties imposed by the ZTP (Art. 27 *et seq.* of the ZTP incl. informational duties towards gas market participants, publishing terms and conditions governing the use of the network, elaborating the 10-year network development plan, operating, maintaining and developing the transmission facilities, transmitting gas on the basis of signed contracts, etc.). PLINACRO, as the TSO, is responsible for the allocation and reservation of the transportation system capacities. Network users (e.g. gas supplier and gas trader) are entitled to use the gas transportation system within a reserved capacity on the basis of a gas transportation contract concluded with PLINACRO as the TSO. The system operator is obliged to publish the general terms and conditions of the transportation system and the standard form of gas transportation contract. A tariff charging regime applies to the transportation system both at the transmission and distribution level. Croatia has adopted the entry-exit transportation tariff system. In line with ZTP, the unbundling process of the activities related to the gas transmission and gas storage was carried out. As regards operation of storage facilities, see question 3.13 above.

According to the ZTP, the natural gas producer is required, *inter alia*, to: ensure a secure, reliable and efficient operation of the upstream pipeline network; and ensure fair, equal and transparent conditions for access to the upstream pipeline network, including access to plants providing additional technical services, except those parts of the upstream pipeline network used for the production of gas at the gas field site, etc. According to Art. 79 of the ZTP, access to the upstream pipeline network is subject to the negotiated third-party access regime. The negotiated third-party access is based on negotiated commercial conditions. The gas producer may refuse access to the upstream pipeline network under certain conditions set out in Art. 81 (1) of the ZTP.

According to the ZTNND, energy undertakings performing the activity of pipeline transport of oil (JANAF) and oil products transport by product-pipeline are required to grant access to their transport facilities to parties entitled to transport facilities access at non-discriminatory and transparent conditions pursuant to the negotiated third-party access. As of 20 February 2014, the negotiated third-party access is based on negotiated commercial conditions. Provisions on the operation of the oil pipeline system of JANAF can be found in the Technical Conditions of Access to Transportation Capacities of JANAF [*Tehnički uvjeti za pristup transportnim kapacitetima JANAF-a*, Gazette “Glasilo VRED-a” no. 3-4/03]. Access can be denied under certain conditions (Art. 5 of the ZTNND). There are currently a total of 21 companies licensed for oil and oil product storage in Croatia.

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?

According to the Croatian building law, both a location permit and building permit issued by the MGPU are required for, *inter alia*, (i) international and main oil and natural gas transportation pipelines including the terminal and associated infrastructure, (ii) underground gas storage, (iii) oil and liquid oil products storage facilities with a capacity of 50,000 tonnes or more, (iv) LPG storage facility with a capacity of 10,000 tonnes or more, and (v) buildings and other projects within strategic investment projects of the Republic of Croatia defined under a special law (e.g. LNG terminal on the Island of Krk in the North Adriatic). An EIA must be carried out before a location permit can be issued. The use permit will be issued on the basis of a technical examination, provided that the constructed building satisfies all conditions under the building and other energy-related laws.

Depending on the specific project, several other authorisations and approvals (of different authorities) may be required (e.g. according to the Croatian law on State property management, nature and environmental protection, physical planning and building, water regime and maritime domain, etc.). The operation of oil and natural gas transportation pipelines and associated infrastructure is subject to licensing.

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?

According to Art. 40 of the ZE, energy entities are entitled to use properties belonging to third parties for the construction and maintenance of grids and systems for the transmission and/or transport and distribution of energy, in compliance with special regulations. Private land may be expropriated provided that this is required with a view to construct a pipeline and that it is in the State’s interest to do so. According to Art. 4 of the ZE, construction, maintenance and the use of energy objects as well as the performance of energy activities are considered to be in the State’s interest. Generally, construction of new transportation infrastructure has to be provided for in the network development plan of the system operators (Art. 8 of the ZE), but also in the development plans of the local and regional self-government units. Detailed provisions on the administrative procedure applicable to property expropriation can be found in the new Croatian Act on the Expropriation and

Determination of Compensation [*Zakon o izvlaštenju i određivanju naknade*, Official Gazette nos. 74/14 and 69/17], which came into force on 26 June 2014.

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

The operator of the system to which the customer wishes to be connected is obliged to grant non-discriminatory access at regulated tariffs in line with the Transportation Network Rules (see questions 6.1 and 6.6). The contract on connection to the transportation system is concluded between PLINACRO, as the TSO, and the distribution system operator, storage system operator, gas producer or final (industrial) customer directly connected to the system in line with the General Conditions of Natural Gas Supply. The system operator is obliged to publish the standard form of contract in connection to the transportation system.

As regards access to the oil transportation system, please also see questions 6.1 and 6.6.

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?

As regards the Croatian oil and gas transportation network, see questions 1.1, 3.1 and 6.1. The TSO is obliged to cooperate with other system operators in the gas sector. The Transportation Network Rules sets out specific provisions in relation to development, construction and maintenance of the transportation system. Interconnection of the gas transportation system and transportation system of the neighbouring country, including technical aspects in relation to planning, construction and operation of the interconnected pipelines, is carried out on the basis of a bilateral agreement concluded with the transportation system operator of the neighbouring country (Sec. III and V of the Transportation Network Rules).

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?

As stated above (see question 6.4 above), non-discriminatory access to the gas transportation system according to the principle of regulated third-party access is provided for in line with the Transportation Network Rules. The access can be refused under certain conditions: (i) lack of capacity; (ii) where access to the system would prevent the system operator from performing the PSO; and (iii) where access to the system would cause serious financial and economic difficulties to gas undertakings with regard to take-or-pay contracts concluded prior to a request for approval of access, which is subject to prior approval from the regulatory authority (HERA). The system operator which refused access to the system on the basis of a lack of capacity or a lack of interconnection shall make the necessary changes and expansion of the system in order to enable access within a reasonable period of time, as far as it is economically feasible to do so or when a potential customer

is willing to pay for them (Art. 81 of the ZTP). In case of refused access to the distribution or transmission system by a final decision, construction of a direct gas pipeline may be allowed, which is subject to prior approval from HERA (Art. 82 of the ZTP). Major new gas infrastructures (i.e. interconnectors, gas storage system and LNG facilities) may, upon request, be exempt from the application of third-party access right under certain conditions laid down in Art. 84 of the ZTP.

In August 2017, HERA adopted the criteria for issuance the approval for construction and operation of a direct gas pipeline, which entered into force on 10 August 2017 [*Kriteriji za izdavanje suglasnosti za izgradnju i pogon izravnog plinovoda*, Official Gazette no. 78/17].

In May 2018, HERA adopted the new Methodology for Determining Fees for the Connection to the Gas Distribution or Transmission System and for Increasing the Connection Capacity [*Metodologija utvrđivanja naknade za priključenje na plinski distribucijski ili transportni sustav i za povećanje priključnog kapaciteta*, Official Gazette no. 48/18], which entered into force on 15 June 2018. On the basis of the methodology, in December 2016 HERA adopted the Decision on the respective fee amounts for the regulation period 2017–2021 [*Odluka o naknadi za priključenje na plinski distribucijski ili transportni sustav i za povećanje priključnog kapaciteta za regulacijsko razdoblje 2017–2021 godina*, Official Gazette no. 122/16], which entered into force on 1 January 2017.

As stated above (see question 6.1), access to the upstream pipeline network is subject to the negotiated third-party access regime. The gas producer may refuse access to the upstream pipeline network under certain conditions set out in Art. 81 (1) of the ZTP.

Non-discriminatory access to the oil transportation system, according to the principle of negotiated third-party access, is provided for in line with the ZTNND and the Technical Conditions of Access to Transportation Capacities of JANAF (also see question 6.1 above). Access can be denied under certain conditions, e.g. lack of capacity, technical or safety limitations (Art. 5 of the ZTNND).

The refusal of access has to be notified in writing. The party seeking access to the system can file an appeal with HERA, if access to the system is refused. HERA has to find whether the prerequisites for refusal of access apply (within 60 days). Against the decision of HERA, no appeal is allowed, but the injured party may bring a claim before the competent Administrative Court.

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?

Under Croatian law, gas transportation is regulated energy activity performed as a public service. The General Conditions of Gas Supply stipulate certain specific data that the gas transportation contracts concluded between gas suppliers or gas traders with the TSO for a definite period of time, need to comprise as follows: (i) data regarding the contracting parties; (ii) conditions of gas transmission; (iii) provisions on quality of gas supply; (iv) conditions of gas delivery limitation; (v) provisions on the reading and communication of metering data; (vi) provisions on the billing and payment of the fee for the use of the transmission system; (vii) time and location of gas delivery; and (viii) other provisions. The gas transmission tariff regime is based on HERA's Methodology for determining tariff rates for gas transportation [*Metodologija utvrđivanja iznosa tarifnih stavki za transport plina*, Official Gazette nos. 48/18 and 58/18], which regulates the mode, method and conditions of the calculation of the network tariffs. The regulation model is based on the regulation incentive method (i.e. the revenue cap method). The

tariff system is based on the entry-exit model. The tariff rates for the natural gas transmission are determined for specific entry and exit points for particular years of the regulation period. The duration of the regulation period is five years. The actual tariff rate is set by the TSO, with the prior approval of HERA. In the event that HERA refuses to give approval, it shall independently set the tariff rates. On the basis of the methodology, in December 2017 HERA adopted the Decision on gas transportation tariff rates for the second regulation period 2018–2021 [*Odluka o iznosu tarifnih stavki za transport plina*, Official Gazette no. 127/17] for PLINACRO as the TSO, which entered into force on 1 January 2018.

As of 20 February 2014, oil transportation by oil pipeline is no longer regulated energy activity and the negotiated third-party access is not based on the tariff system for oil transportation. The price for oil transportation by pipeline is based upon negotiated commercial conditions. The price of oil and oil products storage is not regulated; it is based upon existing market conditions.

7 Gas Transmission / Distribution

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

Gas transmission and distribution are regulated energy activities performed as a public service. PLINACRO, as the only TSO, is legally unbundled (also see question 1.1 above). According to HERA's licence registry, a total of 35 companies are currently licensed as DSOs. Thirteen DSOs are legally unbundled from retail and 22 DSOs are exempt from unbundling due to having less than 100,000 customers. Transmission and distribution networks are subject to regulated third-party access (see questions 6.6 and 7.3).

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

Apart from the licence issued by the regulatory authority (HERA), a concession for gas distribution or a concession for the building of a distribution system is required to operate a distribution network. Prior to the granting of a concession, a tendering process has to be conducted in accordance with the requirements set out in the ZTP and the ZK.

A concession may be granted for a minimum period of 20 years and a maximum period of 50 years (instead of the current maximum time limit of 30 years). In addition, the existing concession contracts may be prolonged with prior approval from HERA and in accordance with the requirements set out in the law. The authority has the power to revoke the concession in case of non-compliance with the terms and conditions of the concession requirements (Art. 44 of the ZTP). According to the Regulation on the amount and method of payment of fees for the concession for gas distribution and concession for the building of distribution systems [*Uredba o visini i načinu plaćanja naknade za koncesiju za distribuciju plina i koncesiju za izgradnju distribucijskog sustava*, Official Gazette no. 31/14], a compensation fee for the concession for gas distribution and concession for building of distribution systems is determined in the amount of 0.5 to 1.5 per cent of the total turnover realised by gas distribution activities in the previous year in the area for which the concession is granted.

Depending on the specific project, several other authorisations and approvals (of different authorities) may be required (e.g. according

to the Croatian law on State property management, nature and environmental protection, physical planning and building, water regime and maritime domain, etc.).

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

Non-discriminatory access to the distribution network, according to the principle of regulated third-party access, is provided for in line with the ZTP and the Distribution Network Rules [*Mrežna pravila plinskog distribucijskog sustava*, Official Gazette no. 50/18], which came into force on 9 June 2018. The Distribution Network Rules govern, *inter alia*, the connection to the distribution system, services of the DSO, the rights and duties of the DSO, system users and final customers, contractual relationships and general terms and conditions of the distribution system, etc. The network user shall conclude a gas distribution contract with the DSO. The gas distribution contract governs the provision of gas distribution service, including the ancillary services and the financial obligations in accordance with the Distribution Network Rules. Such contract shall also include a list of all final customers connected to the distribution system to which the gas supplier supplies the gas elaborated by the balancing groups. The DSO is obliged to publish the standard form of a gas distribution contract.

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

Access to the distribution system may be denied by the DSO under certain conditions provided by the law. The regulatory authority (HERA) can be appealed to if the right of access is damaged (see question 6.6 above). Compare also question 6.6 to insufficient system capacity or insufficient interconnection.

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

The gas distribution tariff regime is based on HERA's Methodology for determining tariff rates for gas distribution [*Metodologija utvrđivanja iznosa tarifnih stavki za distribuciju plina*, Official Gazette no. 48/18], which set out the mode, method and conditions of the calculation of the network tariffs. The regulation model is based on the regulation incentive method (i.e. the revenue cap method). The tariff system in the distribution system is based on the post stamp principle. The actual tariff rate is set by the DSO, with the prior approval of HERA. In the event that HERA refuses to give approval, it shall independently set the tariff rates. On the basis of the methodology, in December 2017 HERA adopted the Decision on gas distribution tariff rates for the second regulation period 2018–2021 [*Odluka o iznosu tarifnih stavki za distribuciju plina* Official Gazette no. 127/17] for the 35 DSOs, which entered into force on 1 January 2018.

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)?

There are no restrictions or limitations in relation to acquiring an interest in a natural gas utility, or the transfer of assets forming part of the distribution network.

8 Natural Gas Trading

8.1 Outline broadly the ownership, organisational and regulatory framework in relation to natural gas trading. Please include details of current major initiatives or policies of the Government or regulator (if any) relating to natural gas trading.

Croatia has implemented the entry-exit model as of 1 January 2014. There is currently no commodity exchange or gas hub in Croatia. Wholesale gas trading is exclusively based on bilateral contracts. In order to pursue gas trade activity in Croatia, a licence for trading, issued by HERA, is required. In case the intended activities of wholesale trading of gas also include the sale of gas to end-customers, a licence for supply, issued by HERA, is required.

The ZTP has established the responsibility of the gas market participants pursuant to the balancing group model for the purposes of the smooth execution and calculation of purchase and sale transactions on the gas market, ensuring the compliance of gas volumes delivered into and taken from the transmission network, and separation of the financial transactions from the physical gas delivery.

Each gas market participant, except for the Croatian energy market operator (*Hrvatski operator tržišta energije*; HROTE) as the gas market operator, is required to be a member of the balancing group. A balancing group is a virtual association of one or more gas market participants, organised on a commercial basis, primarily for the purpose of optimising the costs of balancing, for which the balancing party is responsible. The balancing group is organised and managed by the responsible balancing party, and comprised of the direct members (i.e. gas supplier and gas trader) and indirect members (i.e. final customer). The HROTE keeps the register of the responsible balancing parties and publishes it on its website (www.hrote.hr).

The VTP has also been introduced in the gas market in Croatia as of 1 January 2014. Rules on the VTP are laid down under the Rules on the Gas Market Organisation and Transportation Network Rules.

The VTP under Croatian legislation is defined as a point of gas trading after its entry into the transmission network and prior to its exit from the transmission network – including the gas storage system. To trade on the VTP it is not required to book entry-exit capacity or storage system capacity.

Please note that only a responsible balancing party (*voditelj bilančne skupine*) who is a transmission system user is entitled to trade on the VTP. This means that, in fact, only market parties in possession of a supply or trade licence and who have signed a transport contract with the TSO can gain access to the VTP.

The HROTE publishes on its official website the form which allows for the placement of a bid for the purchase or sale of gas on the VTP. Trading at the VTP is done independently between the responsible balancing parties; neither the TSO nor the HROTE act as a clearing house, hence every party bears the counterparty risks of the other. The parties can use bespoke agreements or the standard agreements published on the HROTE's website.

Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (REMIT) applies directly to parties engaging in gas trading in Croatia. Since Art. 9 of the REMIT imposes an obligation on wholesale energy market participants entering into transactions that are required to be reported to the Agency for Cooperation of Energy Regulators (ACER) to register with the competent national regulatory authority, the registration of market participants is made

available by HERA via the Centralised European Register of Energy Market Participants (CEREMP) as of 25 February 2015.

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?

Natural gas can be traded as an unbundled commodity, separate from the service of distribution/transportation.

9 Liquefied Natural Gas

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

Currently, no LNG facilities exist in Croatia. As regards the planned construction of the LNG terminal on Island of Krk in the North Adriatic, please see question 1.1 above. In order to create a legal framework for the development of the LNG terminal, in June 2018, a new Act on LNG Terminal [*Zakon o terminalu za ukapljeni prirodni plin*, Official Gazette no. 57/18] has been adopted, which entered into force on 5 July 2018.

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

According to the Croatian building law, a location permit and building permit issued by the MGPU are required for, *inter alia*, an LNG terminal (see question 6.2 above). An EIA must be carried out before a location permit can be issued. The use permit will be issued on the basis of a technical examination, provided that the constructed building satisfies all conditions under the building and other energy-related laws.

Depending on the specific project, several other authorisations and approvals (of different authorities) may be required (e.g. according to the Croatian law on State property management, nature and environmental protection, physical planning and building, water regime and maritime domain, etc.). The operation of an LNG facility is subject to licensing.

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

Pursuant to Art. 7 of the ZTP, an LNG facility operation is regulated energy activity which is carried out as a public service in the gas sector. Currently, there are no special regulations of the price or terms of service in the LNG sector.

Pursuant to Art. 93 of the ZTP, the Rules for Use of LNG Terminals (*Pravila korištenja terminala za UPP*) shall set out specific provisions in relation to the development, manner of management and the usage of the LNG terminal including contractual relations and general terms and conditions for using the LNG terminal. In the process of adopting the Rules for Use of LNG Terminals, the LNG terminal operator shall ensure adequate participation of all interested parties, and conduct public consultations lasting no less than 15 days. The Rules for Use of LNG Terminals are to be adopted by the LNG terminal operator, with prior approval of HERA. The respective rules must also be published on the websites of HERA and the LNG terminal operator. Rules for Use of LNG Terminals still remain to be adopted.

In May 2018, HERA adopted the Methodology for Determining Tariffs for LNG Reception and Dispatch [*Metodologija utvrđivanja iznosa tarifnih stavki za prihvata i otpremu ukapljenog prirodnog plina*, Official Gazette no. 48/18] which entered into force on 15 June 2018. The regulation model is based on the regulation incentive method (i.e. the revenue cap method). On the basis of the methodology, in June 2018 HERA adopted the Decision on indicative tariff rates for the LNG reception and dispatch for the regulation period 2021–2040 [*Odluka o indikativnim iznosima tarifnih stavki za prihvata i otpremu ukapljenog prirodnog plina*, Official Gazette no. 56/18] for LNG Croatia, which entered into force on 15 June 2018.

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

A non-discriminatory third-party access regime also applies to LNG terminals. The access to a LNG facility can be refused under certain conditions (set out in question 3.13 above).

10 Downstream Oil

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

The oil industry falls under the competence of MZOE. The national regulatory authority is HERA. The entity responsible for maintenance of the compulsory stocks of crude oil and oil products in Croatia is AZU (formerly HANDA). Beside the ZE, the main legal act is the ZTNND (see question 2.1 above).

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

As stated above (see question 2.1 above), most of the trade in oil products and LPG is carried out by INA Group companies. Other important market players in the oil industry are PETROL HRVATSKA d.o.o., CRODUX DERIVATI DVA d.o.o., LUKOIL Croatia d.o.o. and TIFON d.o.o.

A licence for the performance of energy activities (*dozvola za obavljanje energetske djelatnosti*) issued by HERA is needed to carry out the wholesale of oil products and wholesale of LPG. As regards the wholesale and retail trade with third countries of certain oil products and biofuels, beside the licence for performance of the respective energy activities, it is necessary to obtain approval from MINGO in line with the Regulation on Conditions for Wholesale and Retail Trade with Third Countries of Particular Goods [*Uredba o uvjetima za obavljanje trgovine na veliko i trgovine s trećim zemljama za određenu robu*, Official Gazette nos. 47/14 and 62/15]. According to this Regulation, legal and natural persons engaged in wholesale and trade of fuels (not including oil products and biofuels from the EU Member States, EEA Member States or Turkey) must have adequate warehouses specially furnished and equipped for the storage of fuel. As regards certain reporting obligations to the MINGO, see question 5.1 above.

The price of oil and oil products is not regulated; it is based upon existing market conditions. Exceptionally, Art. 9 of the ZTNND provides that the Croatian Government may, for the protection of consumers, market regulation or other justifiable reasons, determine the maximum retail prices for certain oil products for a continuous period for a maximum of 90 days.

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?

On an administrative level, HERA is competent for the regulation and supervision of energy activities in the oil and natural gas market. The competence of other authorities being responsible for anti-competitive practices, such as the AZTN, remains unaffected.

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

The regulator has to observe the criteria of the Croatian Competition Act (ZZTN) [*Zakon o zaštiti tržišnog natjecanja*, Official Gazette nos. 79/09 and 80/13] and also that of the Act on the Regulation of Energy Activities (ZRED) [*Zakon o regulaciji energetske djelatnosti*, Official Gazette nos. 120/12 and 68/18] and other energy-related legislation both at the EU and national level.

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

The AZTN can initiate an investigation upon receipt of a complaint or upon its own initiative. It can request information necessary for conducting the investigation from any entity operating on the market or from State authorities (e.g. HERA is required to provide technical support to AZTN in the form of expert advice and market analysis).

Upon completion of proceedings, AZTN may issue a decision prohibiting further performance of an anti-competitive agreement or practice or a decision prohibiting the abuse of dominant position in the market. AZTN is further empowered to impose fines (of up to 10 per cent of total annual turnover of the party involved in the anti-competitive practice) or remedial measures. In certain circumstances, AZTN can terminate the proceedings by imposing on the parties to the proceedings commitments proposed during the proceedings, provided they are sufficient for the protection of competition and the harmful situation would be eliminated by their fulfilment.

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?

The Croatian merger control regime catches the merger of independent undertakings, the acquisition of control and the creation of a full-function joint venture. According to Art. 17 of the ZZTN, the filing obligation to the AZTN arises if the following conditions are cumulatively met:

- (i) the combined worldwide turnover of all undertakings concerned is at least HRK 1 billion (approximately EUR 134.4 million) in the financial year preceding the concentration, where at least one of the undertakings concerned has its seat and/or subsidiary in the Republic of Croatia; and
- (ii) the aggregate national turnover of each of at least two of the undertakings concerned is at least HRK 100 million (approximately EUR 13.44 million) in the same period.

The AZTN may, within a period of 30 days from notification, either clear a merger or decide to open an in-depth review. The in-depth review proceeding may take three months with the possibility of an extension by another three months where it is necessary to seek additional expert advice, carry out an additional analysis or where sensitive industries or markets are concerned. Pursuant to the ZZTN, the AZTN may approve unconditionally or conditionally, or prohibit a merger.

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?

As stated above (see section 11 above), special requirements or limitations on acquisitions of interests in the oil and natural gas sector may arise from the Croatian and the EU competition law irrespective of the nationality of the purchaser. As an exception, Art. 25 of the ZTP provides that a special certification process must be conducted where a transmission system owner or TSO is controlled by a person from a third/non-EU country. In this context, HERA is required to make an assessment, in consultation with the MZOE and the European Commission, about whether foreign ownership or control of the transmission system would pose a risk to security of supply of the Republic of Croatia and the European Union.

As regards the licence for performance of the respective energy activities, the Croatian law imposes certain residence requirements on the licensees (e.g. please see questions 3.2 and 3.3).

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

The regulatory policy in respect of the oil and natural gas sector is especially influenced and affected by the requirements of the European Union Third Energy Package legislation.

Croatia is a member of the Energy Charter Conference. On 1 July 2013, Croatia became the 28th member of the EU.

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.

As regards dispute resolution procedures applying between the regulator and participants in the oil and natural gas sector, see questions 3.1, 3.13, 6.6 and 7.4 above.

In terms of disputes arising from the PSA between the Croatian Government and the investor, Art. 29 of the ZIEU and the template PSA provide that all disputes arising out of or relating to the PSA shall be finally settled by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce (ICC) with a seat of arbitration in Zagreb, Republic of Croatia and the applicable law is the Croatian law. Namely, pursuant to Art. 97 of the ZK, the dispute arising from concession contracts shall be resolved by arbitration in Croatia (so-called domestic arbitration) irrespective of the fact that a concession holder is a foreign legal entity. If the parties have not arranged to settle disputes by arbitration, dispute falls within the scope of the exclusive jurisdiction of the Croatian Administrative Court according to the seat of the concession grantor.

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”)?

The New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards was ratified in 1981, and the Convention on the Settlement of Investment Disputes between States and Nationals of Other States was ratified in 1998.

Under the Shareholders’ Agreement 2009, MOL gained operational control of INA. Although the shareholders’ agreement committed the Croatian Government to take over the gas trading business of INA (i.e. the import business of PRIRODNI PLIN) by December 2010, this issue remains unsolved during the ongoing negotiations between the Government and MOL. Consequently, two arbitration procedures in connection with the INA-MOL dispute were initiated. At the end of November 2013, MOL initiated the arbitration procedure under ICSID rules against the Croatian Government under the Energy Charter Treaty. In January 2014, the Croatian Government initiated arbitration under UNCITRAL rules in Geneva to annul the 2009 Amendments to the Shareholders’ Agreement and the Gas Master Agreement (and its First Amendment). In June 2014, the former Croatian Prime Minister was sentenced to imprisonment for taking a bribe from MOL in 2008 in exchange for securing MOL’s dominant position in INA. However, in July 2015, the Croatian Constitutional Court annulled the verdict and ordered a retrial. In December 2016, UNCITRAL dismissed Croatia’s claims based on bribery, corporate governance and MOL’s alleged breaches of the 2003 Shareholders Agreement. ICSID ruling on MOL’s claim is still expected.

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)?

Generally, there is no special difficulty in litigating, or seeking to enforce judgments or awards, against Government authorities or State organs. Nevertheless, due to the long timeframes involved in obtaining judgments in court, companies often try to resolve disputes without seeking a judicial remedy.

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

We are not aware of any such dispute resolution 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 new Gas Market Act (ZTP) came into force on 3 March 2018, with the primary aim of regulating the rights and obligations of participants in the Croatian gas market pursuant to the Third Gas Directive (2009/73/EC).

The following overview provides a summary of the key amendments to the Gas Market Act:

- **The system of appointing a wholesale gas supplier to other Croatian suppliers with PSOs has been kept until 1 April 2021.** However, prior to appointing a (new) supplier in the wholesale gas market, a public tender has to be conducted by the Croatian Energy Regulatory Agency (HERA) by 3 June 2018. Following the tendering procedure, on 27 June 2018, HERA appointed HEP (through its affiliated company HEP-Opkrba plinom d.o.o.) as a preferred supplier in the wholesale gas market for an additional period of one year (i.e. as of 1 August 2018 until 31 March 2019), which remains obliged by law to supply gas under regulated conditions to other suppliers with PSOs for the needs of household customers. At the beginning of 2019, HERA will launch a new tendering procedure in order to appoint a new wholesale gas supplier for the period from 1 April 2019 until 31 March 2021. Suppliers with PSOs are free to choose whether to buy gas from the appointed wholesale market supplier or on the market at the market price.
- **The price regulation of gas supply as a public service is no longer in the hands of the Croatian Government, but of the regulatory authority (HERA).** Until now, the gas price at which the wholesale market supplier sells gas to other suppliers with PSOs for the needs of household customers was set by the Government. Now, however, HERA must determine and publish a reference price for gas. In other words, a price cap mechanism for household customers is to be set up by HERA by the date the tender for the appointment of a wholesale market supplier is launched at the latest.
- On 5 March 2018, HERA adopted the Decision on tariff rates for gas supply as a public service for the period from 1 April 2018 to 31 July 2018. Until 1 August 2018, the respective reference price remains the same as in the previous gas year (i.e. the price has been set at 0.1809 HRK/kWh). For the period thereafter, HERA adopted the Methodology

for Determining Tariff Rates for Public Service Gas Supply and Last-Resort Supply [*Metodologija utvrđivanja iznosa tarifnih stavki za javnu uslugu opskrbe plinom i zajamčenu opskrbu*, Official Gazette no. 34/18], which entered into force on 19 April 2018. The new tariff methodology regulates the method for calculating the final gas price for two distinct periods, i.e. (i) an interim period from 1 August 2018 to 31 March 2021 (transitional rules), and (ii) a period after 31 March 2021 (regular rules). The main aim of the new methodology is convergence of the final gas prices for households with market prices.

- Once again, a **system of regulated retail prices for household customers remains in place**. HERA is required to investigate the functioning of the Croatian gas market at least every three years. Based on the new law, HERA must carry out this investigation by 3 March 2019. In light of the results of the investigation, HERA can adopt necessary and appropriate measures to promote effective competition and to ensure the optimal functioning of the gas market. One of these measures is the adoption of a **Gas Price Deregulation Plan**, where HERA shall ensure adequate participation of all interested parties, and conduct public consultations lasting no less than 15 days. HERA shall adopt the Gas Price Deregulation Plan with the prior approval of the MZOE. The plan must also be published on the website of HERA. It follows from the above that the new law provides for the possibility of the deregulation of gas prices at the retail level, though no specific deadline is foreseen. Further, it seems that HERA's decision for complete deregulation still depends upon Government approval.
- **Suppliers with PSOs for the needs of household customers shall be appointed for a three-year term on the basis of a public tender**. For the period after 1 April 2021, HERA is obliged to conduct a public tender and appoint gas suppliers with PSOs by 31 December 2020 at the latest. However, existing gas suppliers are no longer required by law to act as a supplier with PSOs, meaning that a supplier with PSOs must notify HERA about its decision to cease supplying gas to households under regulated conditions. In that case, HERA shall appoint a new supplier with PSOs following a public tender procedure.
- **Suppliers with PSOs are required to directly or indirectly book (through the appointed wholesale market supplier) gas storage capacities necessary for their supply of gas to households**. Up until now, existing suppliers with PSOs could not directly book storage capacity. Namely, as of 1 April 2017 the existing wholesale market supplier (HEP) has been awarded 60 per cent priority for booking storage capacity with the UGS Okoli. Unlike now, however, it will be possible for suppliers with PSOs to directly book storage capacities in accordance with the Regulation on Criteria for the Acquisition of Protected Customer Status in the Event of a Gas Supply Crisis until the end of the gas day 31 March 2021.

Although key market players are calling for the full liberalisation of the Croatian gas market, the deregulation of gas prices for household customers has been postponed yet again in order to protect final (household) customers from the excessive market gas price. Nevertheless, as a result of increasing liberalisation in recent years, competition among gas suppliers active in the Croatian market (out of a total of 54 licensed gas suppliers, some 45 are active) has increased. Final (household) customers have also started exercising their right to switch suppliers.

In order to further boost investments in exploration and production of hydrocarbons in Croatia, the Croatian Government launched, on 31 October 2018, the second onshore licensing round for seven exploration blocks across the Drava, Sava and Northwest Croatia regions, which is open until 30 June 2019 (further information available at www.azu.hr). The prerequisite for this new tender was created by the adoption of a new Croatian Hydrocarbon Exploration and Production Act (ZIEU), which entered into force on 14 June 2018.

After the parliamentary election in October 2016, the new Croatian Government formed a new ministry for energy and environmental protection. This was done by combining the previous ministries for energy and mining policy and nature and environmental protection, in order to create the MZOE. This should enable a “one-stop-shop” for energy and environmental protection policies and, in particular, the permitting process, as it covers the energy sector and environmental protection within a single governmental ministry. In line with the Climate Change Policy and Croatia's Low-emission Development Strategy for the period until 2030, with a view to 2050 (*Strategija niskougličnog razvoja Republike Hrvatske za razdoblje do 2030. godine s pogledom do 2050. godine*; LEDS), which was developed at the end of 2015, preparation of a new Energy Development Strategy is under way.

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