



# ICLG

The International Comparative Legal Guide to:

# Oil & Gas Regulation 2017

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

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Bowmans

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Gjika & Associates Attorneys at Law

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Josh and Mak International

Koep & Partners

Miranda & Associados, Sociedade de Advogados R.L.

Mohamed Ridza & Co.

Moravčević, Vojnović and Partners

Noerr

Pachiu & Associates

Project Lawyers

Rodríguez Dávalos Abogados  
(Consultores en Energía RDA, S.C.)

Rolim, Viotti & Leite Campos Advogados

Schoenherr

SSEK Legal Consultants

Türkoğlu & Çelepçi

Ughi e Nunziante – Studio Legale

Windahl Sandroos & Co.

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**Contributing Editors**

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Dror Levy

**Group Consulting Editor**

Alan Falach

**Group Publisher**

Richard Firth

**Published by**

Global Legal Group Ltd.  
59 Tanner Street  
London SE1 3PL, UK  
Tel: +44 20 7367 0720  
Fax: +44 20 7407 5255  
Email: info@glgroup.co.uk  
URL: www.glgroup.co.uk

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# Albania

Gjergji Gjika



Oltion Toro



Gjika & Associates Attorneys at Law

## 1 Overview of Natural Gas Sector

**1.1 A brief outline of your jurisdiction's natural gas sector, including a general description of: natural gas reserves; natural gas production including the extent to which production is associated or non-associated natural gas; import and export of natural gas, including liquefied natural gas (LNG) liquefaction and export facilities, and/or receiving and re-gasification facilities ("LNG facilities"); natural gas pipeline transportation and distribution/transmission network; natural gas storage; and commodity sales and trading.**

The exploration of gas in Albania has its beginning in 1955. The exploitation of gas in Albania for industrial use (chemical residues industry, oil industry and production of electric power) dates back to 1963, when the gas field of Bubullima (Area of Kallm) was first exploited, followed by the gas field of Divjaka in 1964 with a total production of 70 million cubic metres ("Mcm")/year, Frakulli in 1972, Finiq-Krane in 1974, Ballaj in 1983, Povelça in 1987 and Delvina in 1989.

The highest production of gas in Albania was registered in 1982 with a total production of 0.937 billion cubic metres ("Bcm"), while the cumulative production of natural gas is 3.15 Bcm, and the cumulative production of accompanying gas is 8.7 Bcm. After the 1990s, the production of natural gas decreased to 12 Mcm/year.

Currently, the number of wells producing natural gas is approximately 20, with a minimum production of 200–300 normal cubic metres ("Nm<sup>3</sup>")/day.

According to the data provided by the National Agency of Natural Resources ("NANR"), the geological reserves of natural gas are 18,163,700,000 Nm<sup>3</sup>, with a total exploited quantity of 12,503,725,787 Nm<sup>3</sup> as of 01.01.2013.

By virtue of Law No. 104/2013, dated 25.03.2013 "On the ratification of the agreement between the Republic of Albania, the Republic of Greece and the Republic of Italy for the project for the pipeline Trans Adriatik (TAP Project)" and Law No. 116/2013, dated 15.04.2013 "On the ratification of the agreement with the government of the hosting country between the Republic of Albania, represented by the Council of Ministers and Trans Adriatik Pipeline Ag, in relation to Trans Adriatik (TAP Project), as well as the agreement between the Republic of Albania represented by the Council of Ministers and Trans Adriatik Pipeline Ag, in relation to Trans Adriatik (TAP Project)", the Republic of Albania will implement the Trans-Adriatic Pipeline ("TAP").

This project will link three countries, namely Greece, Albania and Italy. In January 2010, TAP opened country offices in Greece,

Albania and Italy. The implementation of TAP in Albania will develop the natural gas sector in Albania. According to studies, the consumption of natural gas is predicted to increase to 1.6 billion m<sup>3</sup> in 2030, of which approximately 70% is expected to be used for the production of electric power. Initially, the natural gas shall be used in the industry sector for the production of electric power, whereas after the year 2020, the gas shall be provided to domestic consumers with an expected final consumption of 37% in 2030.

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

Currently, Albania's energy requirements are not met using natural gas due to the lack of infrastructure. By virtue of the data provided by the Institute of Statistics ("INSTAT"), the production of natural gas in Albania for the year 2014 was 28 kilotons of oil equivalent ("ktoe"), while the quantity distributed to the consumer was only 8 ktoe. However, the consumable produced quantities are used in the industry sector, while the energy requirements in Albania are mainly met by other sources as crude oil, coal, firewood and electric power.

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

Albania's natural gas requirements are not met through domestic natural gas production. According to the data provided by INSTAT, the production of natural gas in Albania for the year 2014 was 0.10 ktoe/10,000 habitants, while the quantity distributed to the consumer was only 0.03 ktoe/10,000 habitants. Currently, the produced quantities of natural gas are used only in the industry sector.

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

There is no export of natural gas through pipelines due to the lack of infrastructure.

## 2 Overview of Oil Sector

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

The oil sector in Albania is regulated by the following:

- Law No. 7746/1993 "On Hydrocarbons – Research and production" ("Law 7746/1993");

- Law No. 9876/2008 “On the production, transport and trading of biocarburants and other renewable burning substances for transport” (“**Law 9876/2008**”);
- Law No. 8450/1999 “On the processing, transport and trading of oil, gas and their by-products” (“**Law 8450/1999**”);
- Law 8561/1999 “On expropriation and temporary taking over of private property for public interest” (“**Law 8561/1999**”); and
- Decree No. 782/1994 “On the fiscal system in the hydrocarbons sector (exploration and production)” (“**Decree 782/1994**”).

The first efforts towards the exploration of petroleum in Albania started in 1800, and were intensified in 1900 in cooperation with the international oil industry. The research of oil in Albania started in 1918, when Leo Madalena (an Italian geologist) discovered the first oilfield in Drashovica (Vlora).

Since then, 10 (ten) oilfields have been discovered in Patos in 1927, Kuçova in 1928, Marinza in 1957, Visoka in 1963, Gourisht-Koçul in 1965, Ballsh-Hekal in 1966, Finiq-Krane in 1973, Çakrran-Mollaj in 1977, Delvinë in 1989; and Sqepur in 2001.

The production of oil in Albania started in 1929 with a production of 750 tons of oil. In over 85 years of exploitation, Albanian offshore oilfields have produced 56,249,677 tons of crude oil.

In 2011, NANR reported that the production of crude oil was 894,500 tons with a total value of 456.5 million USD. 85% of such production was produced from the Patos-Marinza Oilfield, which is located in Fier.

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

Albania’s energy requirements are not met using oil, but mainly by the production of electric power. By virtue of the data provided by INSTAT, the production of oil in Albania for the year 2014 was 1,368 ktoe, while the quantity distributed to the consumer was 1,287 ktoe.

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

According to the data provided by INSTAT, the production of oil in Albania for the year 2014 was 4.73 ktoe/10,000 habitants, while the quantity distributed to the consumer was 4.45 ktoe/10,000 habitants. However, based on the data provided by NANR, 255,000 tons of crude oil was distributed in the internal market in 2014.

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

According to the data provided by NANR, in 2014 1,368,200 tons of crude oil was produced, while 1,057,000 tons of crude oil was exported. Based on the data provided by the Albanian customs, the principal countries where Albanian oil is exported to are Italy, Spain and Malta.

As per the data provided by INSTAT, the export of oil for the first quarter of 2015 was 154 million litres, which has decreased compared with the same period in 2014, when the amount of exported oil was 276 million litres. The income realised for the first quarter of 2015 amounted to 4.9 billion Albanian Lek (“**ALL**”) (approx. 35,612,392 euros), whilst in the first quarter of 2014 the income realised from the export of oil amounted to 15.2 billion ALL (approx. 110,369,692 euros).

## 3 Development of Oil and Natural Gas

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

The oil and natural gas sector in Albania is regulated by all the laws mentioned in question 2.1, as well as Law No. 102/2015 “On the natural gas sector” (“**Law 102/2015**”), and the Regulation on Licensing, Amendment, Partial or Integral Transfer, Withdrawal and Renewal of Licenses in the Gas Sector, as approved by the Albanian Energy Regulator Authority (“**ERA**”) with Decision no. 9, dated 11.02.2011 (“**Regulation 9/2011**”).

By virtue of Albanian law, all petroleum in its natural state is the exclusive property of the Albanian State, represented by the Ministry of Energy and Industry (the “**MEI**”). The MEI is entitled to conclude petroleum agreements with any contractor interested in the research and production of oil and gas, granting them the right to research and produce as per the terms and conditions of the petroleum in the relevant contract area.

The National Agency of Natural Resources is an institution dependent on the MEI. NANR is entitled to negotiate petroleum agreements, prepare the necessary documentation and practices concerning the granting of the permits, licences and authorisations in compliance with the law which enables an applicant to enter into agreements and to perform petroleum operations.

Albpetrol Sh.A. (“**Albpetrol**”) is a State-owned company, having as its object the production and trade of petroleum products based on the petroleum agreement concluded with the MEI on 26.07.1993 “On the authorization for the performance of Petroleum Operations”, and having the right to grant to third parties a licence agreement for the areas under its administration.

The Albanian Energy Regulator Authority is the regulatory authority in the sector of natural gas and electric power, with the exception of the exploration and production/exploitation of natural gas.

### 3.2 How are the State’s mineral rights to develop oil and natural gas reserves transferred to investors or companies (“participants”) (e.g. licence, concession, service contract, contractual rights under Production Sharing Agreement?) and what is the legal status of those rights or interests under domestic law?

The State mineral rights to develop oil and natural gas are transferred to an investor by entering into a petroleum agreement with the latter. The petroleum agreement may be for a term of up to five years for exploration, and up to 25 years for production and exploitation of the hydrocarbon reserves.

The petroleum agreement may provide to the investor the right to construct and operate pipelines in Albania, the right to own part of the production and the right to sell and export the production.

Any interested party wishing to enter into a petroleum agreement on hydrocarbons should submit an application to NANR, and the latter must submit to the MEI the necessary documents. The MEI decides on the approval or refusal within 10 days, and, in case of approval, NANR starts the negotiation on the terms and conditions of the petroleum agreement with the applicant.



The final draft may be sent for review to the Ministry of Finance and to the Ministry of Justice. The MEI should sign the petroleum agreement within 10 days of receiving the revised and renegotiated agreement, and send it to the Council of Ministers for final approval.

Even in case of a licence agreement to be entered into with Albpetrol for the areas administered by the latter, the negotiation should be undertaken with NANR, and the licence agreement must be signed by the MEI and Albpetrol, and finally the agreement should be approved by the Council of Ministers.

**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).**

Any legal entity wishing to perform exploration activity in relation to oil and natural gas should enter into a petroleum agreement with the MEI or into a licence agreement with Albpetrol for areas under the operation of the latter. The exploration agreement may be entered into for a period of five years, extendable up to seven years.

Any legal entity wishing to perform production and exploitation activity in relation to oil and natural gas should enter into a petroleum agreement with the MEI or into a licence agreement with Albpetrol for areas under the administration/operation of the latter. The production and exploitation agreement may be entered into for a period of 25 years.

**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)?**

All petroleum in its natural state is the exclusive property of the Albanian State. The latter may delegate the right to explore, produce and exploit to any interested third party by entering into a petroleum agreement. In such agreement, the Albanian State is represented by the MEI, while the implementation of such agreement is supervised by NANR.

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

The following taxes are applicable:

- Profit tax amounting to 50% of the gross profit for the relevant fiscal year, payable according to the relevant petroleum agreement.
- Royalty tax on oil and gas amounting to 10% of the sales, payable not later than the 15<sup>th</sup> day of the following month.

In case of a production-sharing agreement, the contractor is entitled to compensate the State authority in oil or natural gas as compensation for business costs.

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

There are no restrictions in relation to the export of oil and natural gas.

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

There are no currency exchange restrictions or restrictions on the transfer of funds derived from production out of the jurisdiction.

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

The oil and natural gas development rights may be transferred or assigned to any third party depending on the provisions of the petroleum agreement with the MEI.

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

Any operator wishing to operate in the oil and natural gas sector, in order to enter into an exploration or exploitation agreement, should have necessary financial means proving the ability to undertake such activity. There is no specification on what kind of security or guarantee should be provided; however, in practice, a bank guarantee is required.

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

The rights to develop oil and natural gas may not be pledged.

**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?**

In addition to the authorisation mentioned in question 3.3, the following permits are required:

- The Environmental Permit approved by the Minister of Environment and issued by the National Licensing Center.
- The Development Permit, Construction Permit and Use Permit issued by the National Territory Council.

**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?**

There is no specific law or regulation on the abandonment or decommissioning of physical structures used in oil and natural gas development. However, the holder of an oil and natural gas development right should take all necessary measures for the protection of the environment and diminution of the pollution due to the performance of petroleum operations.

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

Gas storage is regulated by Law No. 102/2015. Gas storage may be performed by any legal entity duly licensed by ERA. The licence is granted for a period of not more than 30 years and may be renewed. Depending on the efficiency and profitability, ERA may license one or more operators.

## 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).

By virtue of Law No. 102/2015, only legal entities duly licensed by ERA may perform wholesale and retail of natural gas (including LNG). Such licence is issued for a period of not more than 10 years and may be renewed.

The price in relation to wholesale and retail sale of gas is determined based on supply and demand.

## 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.

There are no specific requirements, limitation or rules in relation to cross-border sales of oil and oil products. Any legal entity duly licensed may perform the import/export of oil and oil products in accordance with the international convention ratified by the Albanian government.

## 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).

Recently, the Albanian Parliament approved Law No. 102/2015, which implements Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas, and governs the transport and associated infrastructure in relation to natural gas.

The construction and use of pipelines for the transmission and distribution of natural gas, LNG and natural gas deposits, direct lines connecting the Albanian natural gas system with neighbouring systems, as well as any plant, installation or other device incorporated in the natural gas sector, is subject to approval by the Council of Ministers. Such approval is granted for a period of 30 years, renewable.

Any legal person wishing to operate in the natural gas sector and to perform the following activities should obtain a licence issued by ERA for the transmission, distribution, supply and trade of natural gas, as well as operation of natural gas storage facilities and LNG facilities.

### 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?

The following permits and authorisations are required for the construction and operation of the natural gas transportation pipelines and associated infrastructure:

- The Environmental Permit approved by the Minister of Environment, issued by the National Licensing Council (“NLC”).
- The approval of the Council of Ministers on the construction and use of the natural gas transportation pipelines and associated infrastructure.
- The Development Permit, Construction Permit and Use Permit issued by the National Territory Council.

### 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?

An investor who has entered into a petroleum agreement, or a holder of the permit to construct natural gas transportation pipelines, is also granted the right of use of the land. The right to use the land is exercised by virtue of an agreement entered into with the landlord, being between the State entity, local government or private person owning the immovable property and the investor/holder of the permit, against the payment of a fee. The investor shall compensate the landlord for all the damages suffered by the latter due to such construction works, installment of infrastructure, or the limitation to use the land.

In case the landlord fails to enter into such an agreement with the investor, the latter is entitled to address the competent court for the purpose of determining the easement rights and the annual payment which is due to the landlord.

Furthermore, Albanian law provides for the expropriation of private property, provided that the oil and natural gas activity in a certain area is of special public interest and is the object of dispute between the investor and the landlord in relation to use of the relevant property.

The expropriation right is exercised for a public interest that cannot be completed or protected by other means, only on the grounds set out in Law No. 8561/1999 and against fair compensation.

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

The Transmission System Operator (“TSO”), in the capacity of the administrator of natural gas transportation infrastructure, should ensure unlimited access to the transmission system to any third party in accordance with the terms and conditions determined in the Network Transmission Code, approved by ERA. Access for third parties may be granted, provided that the operator has the necessary financial and professional capacity to exercise the access right.

The access right to the natural gas transportation pipelines is regulated by virtue of an agreement entered into with the TSO. The terms and condition of the access agreement as well as the access fees should be in compliance with the methodology approved by ERA.

### 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?

To date, the oil transportation system is not integrated or interconnected with any transportation system of any third country. Upon completion of the TAP Project, it is expected that the natural gas transportation pipelines in Albania will be integrated and interconnected with the Greek and Italian natural gas transportation systems.

### 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?

The TSO may refuse third-party access to the natural gas transportation pipeline or associated infrastructure due to lack of capacity, in case such access impairs the performance of obligations to public service.

In such case, TSO should make the necessary improvements to the infrastructure, to the extent it is suitable from a financial point of view, or in case the interested third party is willing to pay for such improvements.

However, the proposed Transmission Network Code which regulates, *inter alia*, the terms and conditions for providing access to third parties, is expected to be approved by ERA.

### 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?

In relation to oil, the parties are free to agree the terms and conditions of transport by entering into an agreement, which should then be filed with NANR.

In relation to the transport of natural gas, the terms and conditions, as well as tariffs, are regulated in accordance with the proposed methodology which is expected to be approved by ERA.

## 7 Gas Transmission / Distribution

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

The transmission and distribution of natural gas is regulated by Law No. 102/2015 and Regulation 9/2011.

Transmission means the transport of natural gas to the client through a network of high pressure pipelines, which are different from the pipelines in the exploration-production system and the distribution pipelines, excluding the service of supply. Natural gas transmission is an activity of public interest and may be performed by a TSO licensed by ERA. A TSO is a legal entity that operates only in the transmission of natural gas and has, *inter alia*, the following powers:

to construct, own, operate, maintain and develop a safe, efficient system for natural gas transmission and ensure a competitive market, as well as ensure sufficient capacity to meet reasonable demand for the transmission of natural gas; to provide a natural gas transmission service; and to grant third-party access to the transmission system in accordance with the Transmission Network Code.

Distribution means the transport of natural gas through a pipeline network to the client, excluding the service of supply. The distribution of natural gas may be performed by a distribution system operator (“DSO”). A DSO is a legal entity that operates only in the distribution of natural gas and has, *inter alia*, the following powers: to construct, own, operate, maintain and develop a safe, efficient and environmentally friendly system for natural gas distribution; to provide a stable and efficient distribution of natural gas in accordance with licence conditions; and to grant third-party access to the transmission system in accordance with the Distribution Network Code.

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

The governmental authorisations required to operate a distribution network are:

- The Approval of the Council of Ministers on the construction and use of a distribution network.
- The Distribution Licence issued by ERA.
- The Environmental Permit approved by the Minister of the Environment and issued by the NLC.
- The Development Permit, Construction Permit and Use Permit issued by the National Territory Council in case of construction of infrastructure.

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

The DSO provides access to the distribution system, within the limits of distribution capabilities and technical regulations, in accordance with the terms and conditions stipulated in the Distribution Network Code, approved by ERA.

The DSO should publish the terms and conditions approved by ERA, including rules, guarantees and access fees. The same terms apply to all customers without discrimination.

The DSO should grant access to the natural gas distribution network taking into consideration the financial ability of the third party. However, all the criteria for granting access should be non-discriminatory, proportional and transparent.

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

Law No. 102/2015 does not provide for the right of ERA to require a DSO to grant capacity or expand its system in order to accommodate new customers. However, the Distribution Network Code, regulating, *inter alia*, the terms and conditions for providing third-party access, is expected to be approved by ERA.

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

The access fee should be calculated in accordance with the methodology approved and published by ERA.

### 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)?

The licence or assets forming part of the distribution system may be transferred entirely or partially to any third party upon prior approval of ERA, with the exception of assets having a minimal value or those not related to the licensed activity. In case of transfer of assets, the transferee should apply to ERA to obtain a new licence.

## 8 Natural Gas Trading

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

The wholesale and retail of natural gas may be performed by a legal entity duly licensed by ERA. A company licensed for the supply of natural gas is also entitled to perform the trading of natural gas, provided that separate accounts are kept of each of the activities.

ERA surveys the natural gas market in cooperation with the Competition Authority at least every two years, and the Competition Authority takes measures to ensure effective competition in the natural gas market and to identify market abuse cases.

A regulation on the organisation and functionality of the natural gas market is expected to be approved by ERA.

### 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?

There are no specific provisions on tradable natural gas commodities. However, by virtue of Law No. 102/2015, natural gas comprises methane, including any associated gas, and all hydrocarbons in a gaseous state in normal atmospheric conditions, including LNG, biogas or other types of gas transmitted and distributed in the pipeline system.

## 9 Liquefied Natural Gas

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

The operation of LNG facilities is regulated by Law No. 102/2015. The LNG system may be operated by any legal entity licensed by ERA, and depending on the efficacy, by one or more operators.

The LNG system operator has, *inter alia*, the following powers: to operate, maintain and develop safe, reliable and efficient LNG facilities; to connect the LNG facilities with the transmission system in accordance with the technical rules related to LNG plants; install measurement equipment for inflows and outflows, as well as gas quality parameters; and to ensure objective, equal and comprehensible conditions of access to LNG facilities.

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

The following governmental authorisations are required in order to construct and operate LNG facilities:

- The Approval of the Council of Ministers on the construction and use of LNG facilities.
- The LNG facilities operation licence issued by ERA.
- The Environmental Permit approved by the Minister of Environment and issued by the NLC.
- The Development Permit, Construction Permit and Use Permit issued by the National Territory Council.

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

The fee for accessing LNG facilities is calculated in accordance with the methodology expected to be approved and published by ERA.

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

The LNG system operator should offer services on a non-discriminatory basis to all network users that comply with the market requirements.

An LNG system operator may refuse access to a third party to LNG facilities or associated infrastructure due to lack of capacity, in case such access impairs the performance of obligations to public service.

## 10 Downstream Oil

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

In addition to the laws indicated in question 2.1 above, the downstream oil sector is regulated, *inter alia*, by the following:

- DCM 755/2014 “On the determination of procedures and requirements with regard to the award of a ‘Processing Licence’ for processing plants of the by-products of oil”.
- DCM 19/2015 “On the procedures and requirements with regard to the granting, transfer and renewal of the concession licence for refineries for crude oil processing activity for the production of the by-products thereof”.
- DCM 170/2002 “On the determination of the procedures and requirements on the granting of the permits and authorisations with regard to the trade of oil, gas and their by-products”.
- Order of the Ministry of Energy and Industry 389/2014 “On the data that should be sent by legal entities exercising their activity in the sector for processing, transporting and trading crude oil and its by-products”.
- Order of the Ministry of Energy and Industry 76/2015 “On the procedures and tariffs with regard to the issuance of the technical certificate for the entities carrying out activities in the sector for processing, transporting and trading crude oil and its by-products”.

A legal entity may operate an oil refinery for processing crude oil, provided that it is established as a joint stock company and after obtaining a concessionary licence through a decision of the Council of Ministers for a term of 30 years, renewable.



Processing plants are entitled to carry out the activity of processing petroleum by-products, provided that it is established as a joint stock company and has obtained the processing licence, issued by the Ministry of Energy and Industry, which is issued for a period of 15 years, renewable.

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

The wholesale of oil may be performed by any legal entity established as a joint stock company, provided it has obtained a trade permit from the Ministry of Energy and Industry for a period of 10 years, renewable.

In addition to the above, the wholesale of oil may be performed by (i) legal entities producing hydrocarbons, the latter being entitled to sell the produced crude oil only to oil refineries for export purposes, and to companies that have obtained a trade licence for crude oil, (ii) oil refineries, which may trade their own production, and (iii) processing plants, which may trade their own production.

Albanian law does not impose any restriction as to the ownership of such companies.

## 11 Competition

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

The competent authority responsible for the regulation of competitive and anti-competitive practices in both the oil and gas sectors is the Competition Authority (“CA”).

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

By virtue of Law No. 9121/2003 “On the Protection of Competition”, the following are considered anti-competitive conducts that might restrict or distort competition: prohibited agreements; abuse of dominant position; and concentrations.

Prohibited agreements, specifically, are agreements that: directly or indirectly fix purchase or selling prices or any other trading condition; limit or control production, markets, technical development or investment; share markets or sources of supply; provide dissimilar conditions to equivalent transactions with different parties, thereby placing them at a competitive disadvantage; and render the conclusion of agreements subject to acceptance by other contracting parties of additional obligations that, due to their nature or commercial use, are not related to the object of such agreements.

The abuse of dominant position may occur in the following cases: the direct or indirect fixing of unfair selling or purchase prices or other unfair trading conditions; the restriction of production, markets or technical development; the provision of dissimilar conditions to equivalent transactions with different parties, thereby placing them at a competitive disadvantage; and render the conclusion of agreements subject to the acceptance by other contracting parties of additional obligations that, due to their nature or commercial use, are not related to the object of such agreements.

The concentration may occur in the following cases: the merger of two or more companies; the acquisition of direct or indirect control by one or more individuals or legal entities that simultaneously control at least one other company; and direct or indirect control over one or more companies or parts thereof.

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

In case of doubt for anti-competitive actions, the CA, on its own initiative, is entitled to carry out investigations within the premises of the companies or group of companies, and the residences of the administrators, directors and other employees of the companies. The Inspectors of the CA are also entitled to obtain information or seize objects when such seizure is deemed necessary.

Moreover, the CA, according to the information received, may perform either a preliminary or an in-depth investigation. Depending on the results of such investigation, the CA applies the respective measures provided for in the Law on the Protection of Competition.

In case of anti-competitive conduct, the CA may impose penalties amounting to up to 10% of the turnover of the previous fiscal year.

### 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?

Concentrations are considered as such and need to be approved by the CA in case during the year previous to the transaction: (a) the combined worldwide turnover of all participating companies is more than 7 billion ALL (approx. 50 million euros) and the domestic Albanian turnover of at least one participating company is more than 200 million ALL (approx. 1.4 million euros); or (b) the combined domestic turnover of all participating companies is more than 400 million ALL (approx. 2.9 million euros) and the domestic turnover of at least one of the participating companies is more than 200 million ALL (approx. 1.4 million euros).

The above concentrations should be notified to the CA within 30 days of their conclusion, and the latter must approve or refuse it within two months as of receipt of the notification.

## 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?

There are no restrictions on acquisition of interests by foreign companies. Therefore, the foreign investor may either establish a company or a branch in Albania for purposes of exercising its activity.

There are no restrictions as to the nationality of shareholders of a company.

### 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?

Albania has ratified the Energy Community Treaty and has become a part of the Energy Community. In light of the above, and the

subsequent obligation of applying the *acquis communautaire*, the new legislation on natural gas, namely Law No. 102/2015 “On the natural gas sector” dated 23 September 2015, is completely harmonised with the European legislation in force.

Moreover, in relation to the TAP Project, the Albanian Parliament has ratified the intergovernmental agreement entered into with Italy and Greece.

## 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.**

Any dispute arising from a petroleum agreement in the oil sector is settled in accordance with the provisions of the agreement, and in practice, petroleum agreements also determine an international court of arbitration as the competent authority for resolving such disputes.

With regard to the companies operating in the natural gas sector, the competent authority for the resolution of disputes arising with regard to licensing and the amendment, transfer, revocation or renewal of a licence, is the Albanian Energy Regulator. The decision of the latter authority may be appealed at the Albanian national courts.

**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 by the Albanian Parliament on 9 November 2000 and entered into force on 27 June 2001.

The Convention on the Settlement of Investment Disputes between States and Nationals of Other States (“ICSID”) was signed and ratified by the Albanian Parliament on 15 October 1991 and entered into force on 14 November 1991.

**13.3 Is there any special difficulty (whether as a matter of law or practice) in litigating, or seeking to enforce judgments or awards, against Government authorities or State organs (including any immunity)?**

The governmental authorities do not benefit from any immunity, and to date there have not been any difficulties with regard to the enforcement of judgments against the governmental authorities.

**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?**

Recently, there have been court procedures initiated by one of the companies operating in the Albanian oil sector; however, due to confidentiality, we may not provide further details on the case and the company.

## 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 by-laws implementing Law No. 102/2015 are expected to be approved by the Council of Ministers and ERA.

**Gjergji Gjika**

Gjika & Associates Attorneys at Law  
ABA Business Center  
Papa Gjon Pali II Street, Tirana  
Albania

Tel: +355 42 400 900  
Fax: +355 42 400 901  
Email: [ggjika@gjika-associates.com](mailto:ggjika@gjika-associates.com)  
URL: [www.gjika-associates.com](http://www.gjika-associates.com)

Gjergji Gjika is the founder of Gjika & Associates Attorneys at Law.

He has long experience providing legal counsel to domestic and international multinational companies, focused on business and commercial, tax and employment law, administrative and public procurement law, mergers and acquisitions, re-organisations and corporate governance. He is regularly involved in drafting contracts, legal opinions and due diligences in relation to mining, hydrocarbons and the natural gas and energy sectors.

Gjergji Gjika is recognised as a leading lawyer in the *IFLR1000* 2014, 2015 and 2016 editions.

**Oltion Toro**

Gjika & Associates Attorneys at Law  
ABA Business Center  
Papa Gjon Pali II Street, Tirana  
Albania

Tel: +355 42 400 900  
Fax: +355 42 400 901  
Email: [otoro@gjika-associates.com](mailto:otoro@gjika-associates.com)  
URL: [www.gjika-associates.com](http://www.gjika-associates.com)

Oltion Toro joined Gjika & Associates as a Senior Associate when it was established, and as of January 2014 he became Partner. He graduated from the Law Faculty, Babes-Bolyai University, Romania, and holds a Master of Laws (LL.M.) from the Law Faculty of Maastricht University, the Netherlands.

Oltion has extensive experience in litigation, contract drafting and consulting, real estate and due diligence, and regularly advises clients in relation to labour law, administrative law, public procurement and concession law. He is regularly involved in due diligences in relation to mining, hydrocarbons and the natural gas and energy sectors.

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59 Tanner Street, London SE1 3PL, United Kingdom  
Tel: +44 20 7367 0720 / Fax: +44 20 7407 5255  
Email: [info@glgroup.co.uk](mailto:info@glgroup.co.uk)