

the project cannot be done by awarding a concession, but instead through public procurement or a so-called “two-tier model,” under which the public partner conducts a public procurement for the implementation of the energy efficiency improvement measures and awards the concession for their management.

The procedure for the energy performance public tender is initiated by publishing the invitation to tender that is followed by the public opening of the tender applications, subject to review and assessment by an expert committee appointed by the public partner. The expert committee determines which applications fulfill the tender conditions and classifies them in a way that specifies which of the applications are most successful in meeting the criteria set and what subsequent ranking they achieve in terms of meeting the criteria. The contract on public-private partnership concludes following the selection of the private partner by a final decision. Therefore, the provisions of the Public-Private Partnership Act and Directive 2012/27/EC, notably with respect to the efficiency measures, savings, duration, and other provisions, should be considered when drafting public-private partnership energy performance contracts.

It stems from this that energy performance contracts in the public sector carry a number of inconveniences, the first being the non-comprehensive and scattered regulation of the subject matter. Furthermore, from a procedural point of view, the Public-Private Partnership Act does not constitute the most appropriate regulation to achieve the ambitious objectives of the Slovenian government with respect to ensuring the energy efficiency of public buildings. Hence, the relevant legislation should be amended by determining exemptions from the public tender procedure for energy performance contracts.

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## ROMANIA

### Romania May Become One of the Great European Powers in the Energy Sector



Anca Mihailescu

#### Natural Gas: The Road to Becoming a Gas Exporter

Romania has a petroleum history reaching back more than 150 years, as the country was the first to produce crude in the world and the first to build a modern oil refinery.

Currently, more than 90% of Romania's gas consumption is produced from internal sources, and it is expected that the country will soon become a gas exporter, due mainly to recent discoveries in the Black Sea, but also to new onshore discoveries.

The main focus of both Government and industry (which includes big players such as ExxonMobil, Hunt Oil, Lukoil, and OMV) lies in: (i) developing a proper legal framework for offshore projects; and (ii) ensuring energy security by developing the National Trans-



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mission System (NTS) and proper interconnections with neighboring countries.

As far as offshore developments are concerned, not only are there almost no rules addressing the specific nature of the industry, but certain provisions under existing legislation constitute real blockages for these projects. On the other hand,

the implementation of the Bulgaria-Romania-Hungary-Austria gas pipeline (which is aimed at diversifying the regional gas supply by connecting the area with future major projects such as TAP) and the NTS's plan to take over gas production in the Black Sea starting with 2020 faces no delays. Later, the new infrastructure could carry Azeri gas expected to arrive on Romanian shores via the AGRI project.

Improving energy efficiency is also on the short to-do list of the NTS' operator, through upgrades of the system itself.

In addition, the Government intends to put in place a new royalties regime and has been threatening to impose higher royalties on the industry for several years, while key players have been rightfully invoking the need for a stable tax and royalty regime and the protection of the stability clauses under existing concession agreements and related legislation.

#### Electricity: The Road to New Renewable Sources and Ensuring Energy Efficiency

Romania has exceeded the 2020 EU Renewable Energy Target since 2014 as a consequence of an extremely investor-friendly renewables incentives scheme implemented in 2008, based on granting green certificates to producers and obliging suppliers to acquire them.

This scheme resulted in an uncontrolled raise of electricity prices. Consequently, in 2013, the Government drastically reduced the level of support. This change of legislation caused major grief among wind and solar energy producers (with many threatening to file IC-SID claims (although no actions were actually taken)) and put a halt to new projects.

Since the financial viability of solar and wind power projects was severely affected, in order to avoid a total collapse of the industry, the legislation was finally relaxed last year. Although these amendments benefit producers they do not seem sufficient to stimulate new projects.

The country's main goals for the next period appear to be: (i) the modernization of the electricity grid (which would lead to investments of about USD 600 million by 2030, including technologies that make the transition to “smart grids”); (ii) a new support scheme for bioenergy (a highly discussed topic in recent years in light of Romania's poor performance in terms of waste management; and (iii) the development of hydro and nuclear power.

## Environmental: A Slow but Hopefully Firm Road to Meet EU Standards

For more than a decade, Romania has been implementing relevant environmental EU legislation and attempting to comply with all rules imposed by Brussels. However, it has not been a smooth road. The main challenges lie in: (i) improving compliance with waste management and disposal regulations (currently more than 70% of waste goes to the landfill, despite a maximum 25% quota); and (ii) improving the administrative capacity of the competent authorities, in particular with regard to water and waste management, and the establishment, protection, and management of protected natural areas.

Romania's new Environmental Impact Assessment Law, which transposes Directive 2014/52/EU, is expected to come into effect this year. This too will be a bumpy ride as significant changes to the draft were proposed by the private sector. Fortunately, the Government recently informed the industry that the most controversial provision (a 1% tax for the review of EIA studies) included in the initial draft (although no equivalent exists in EU law) will be removed.

Important changes are expected in waste management legislation. Currently two draft laws providing clarifications to the existing legal framework and setting additional obligations to waste producers and/or collectors in different stages of the approval process.

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## SLOVAKIA

### Upcoming Challenges for the Slovak Energy Market

The Slovak energy market is in a state of transition. Energy security continues to be a key driver of the country's energy policy. Long characterized by its reliance on gas from the Russian Federation, Slovakia continues to seek alternative sources to supply its energy needs. To a large extent, the solution has been to invest billions into nuclear power, while the development of renewable energy sources (RES) has so far been slow.



*Petr Zakoucky*

### Energy Dependence and Security

In an attempt to address its long-term dependence on the supply of oil and gas from Russia, Slovakia has introduced reverse-flow transit pipelines with Austria and the Czech Republic to provide it with access to gas from Western Europe. However, despite these efforts, almost all gas in Slovakia continues to come from the Russian Federation. For the moment, Slovakia plans to diminish its dependency on Russia and increase its transit capacity by constructing a 164 km cross-border gas pipeline. This has been designated



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as a project of common interest by the European Commission, and was awarded EUR 108 million in EU subsidies. When implemented, the project will enable the transit of natural gas, including liquefied natural gas, from the Baltic Sea to South-Eastern Europe.

Slovakia has long benefited from its position as one of the main gas transit countries in Europe. However, this position could be jeopardized by the planned construction of the Nord Stream 2 project. If constructed, the new gas pipeline running across the Baltic Sea would allow Russia to supply Germany with 110 billion cubic meters of gas per year, significantly reducing the amount of gas transported to Western Europe through Slovakia. This could cause losses of up to EUR 700 million annually in transmission fees.

### Nuclear Energy on the Rise

Nuclear energy has so far been Slovakia's chosen path to energy independence. While many countries are stepping away from nuclear energy, Slovakia has been significantly expanding its fleet of nuclear power plants. Currently, Mochovce and Jaslovské Bohunice, the two largest nuclear power plants, have installed capacity of approximately 2000 MW, which represents around 57% of Slovakia's total energy generation (IEA figures for 2015). The Mochovce power plant is being expanded by almost 1000 MW, which should be completed by 2019. In addition, the country has been seriously considering the construction of additional reactors at Jaslovské Bohunice.

Continuous delays in the Mochovce expansion have resulted in a huge increase in project costs from the original EUR 2.8 billion to the currently estimated EUR 4.6 billion. Considering the current lower market power prices in the region, there are major concerns that the new units at Mochovce will not be able to operate profitably.

### A Greener Horizon?

Slovakia is increasingly considering green energy as an alternative to fossil fuels, and the share of renewable energy doubled from 6.4% in 2005 to 12.9% in 2015 (according to Eurostat SHARES). However, the percentage of power produced by new RES installations is still relatively low, and consequently there is limited diversification in the energy mix.

Hydro, biomass, and solar are the most frequently used RES, while geothermal energy is seen to offer potential for future development. On the other hand, wind is considered an unreliable source due to local environmental factors.

Although it seems that Slovakia will have no trouble reaching the EU's 20/20/20 targets, this is more due to its high share of energy from nuclear power and old hydropower plants, which together generate approximately 17% of the domestic installed capacity.