

**LAW No. 102/2015**

**ON NATURAL GAS SECTOR<sup>1</sup>**

**(as amended with Law no. 81/2021, date 24.6.2021, no. 89/2018, date 3.12.2018, no. 64/2018, date 24.9.2018)**

Based on articles 78 and 83, paragraph 1, of the Constitution, with the proposal of the Council of Ministers,

THE ASSEMBLY OF THE REPUBLIC OF ALBANIA

DECIDED:

CHAPTER I

GENERAL PROVISIONS

Article 1

**Scope of the law**

The purpose of this law is to guarantee sustainable and secure supply of natural gas to the consumers through a competitive market place integrated to regional and European markets, that provides a high quality of service at reasonable cost which take into account requirements on environmental protection.

Article 2

**Subject matter**

This Law lays down the rules relating to the organisation and functioning of the natural gas sector, access to the market, the criteria and procedures applicable to the granting of authorisations for transmission, distribution, supply and storage of natural gas and the operation of systems.

Article 3

**Applicability**

1. This Law shall apply to all natural gas activities, in the field of transmission, distribution, trading, storage, supply as well as construction and operation of natural gas infrastructures, excluding the activity of exploration and production of the natural gas

2. The rules established by this law for natural gas, including LNG, shall also apply in a nondiscriminatory way to biogas and gas from biomass or other types of gas in so far as such gases can technically and safely be injected into, and transported through, the natural gas system.

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<sup>1</sup>This law is fully aligned with Directive 2009/73 / EC of the European Parliament and of the Council dated 13 July 2009, "On common rules for the internal market in natural gas, and repealing Directive 2003/55 / EC", Number CELEX 32009L0073, the Official Journal of the European Union, Series L no. 211, dated 14.8.2009, p. 94-136 "

## Article 4

### Definitions

On this law the terms shall have the meanings as follows:

1. "Third party access - is the right of all the system users for using the transmission, distribution, storage gas system under defined and published terms and conditions in full compliance with transparent and non-discriminative principals based on tariffs approved by ERE.
2. "Access to Storage" is the right of a producer, supplier, transmission operators, customers to use the storage capacities in the Republic of Albania
3. "Access in the transmission/distribution system" is the right of a producer, supplier or customer to connect with the transmitting/distributing system.
4. "Certification" is the procedure which establishes conformity with the conditions which guarantee independence and separation of Transmission System Operator, as a precondition for the licensing in accordance with this law.
5. "Storage" means the injection of natural gas to storage facilities, its storing and withdrawal.
6. "Gas derivative" means a financial instrument that may be used from the gas market participants as a security measure from possible price fluctuations of natural gas in the market.
7. "Public service obligation" shall mean an obligation imposed to a licensed person, for carrying out public services, which relates to; a secure and qualitative supply, regulated prices in the natural gas sector, energy efficiency, environmental protection the fulfillment of which does not distort competition, save as when it is required for ensuring the said public service.
8. "Energy Regulatory Entity or "ERE" means the regulator institution in electricity and gas sector which is established and functions according to provisions of this and the law on power sector;
9. "ENTSO-G" is the European Network of Transmission System Operators for Gas
10. "Force Majeure" means a natural or social act or event occurred in the country as earthquakes, lightning, cyclones, floods, volcanic eruptions, fires or wars, armed conflict, insurrection, terrorist or military action, which prevent the licensee from performing its obligations under the license or other acts or events that are beyond the reasonable control and not arising out of the fault of the licensee, and the licensee has been unable to overcome such act or event by the exercise of due diligence and reasonable efforts, skill and care;
11. "Supply" means sale and resale of the natural gas, including LNG, to customers.
12. "Supplier of last resort" shall mean a supplier designated in accordance with the provisions of this law, which for a limited period of time shall provide supply services under regulated conditions, to customers which have not been able to contract a supplier or have lost the supplier.
13. "Natural gas" is methane gas, including associated gas, as well as all hydrocarbons that are gaseous at normal atmospheric conditions, which include LNG, biogas or other types of gas transmitted and distributed in the piping system.
  - 13/1. "Liquefied Natural Gas"(LNG) is methane gas CH<sub>4</sub>, which is converted into liquid at 1 atmosphere (atm) pressure and a temperature of minus 161 degrees Celsius.
  - 13/2. "Compressed Natural Gas" (CNG) is methane gas CH<sub>4</sub>, which is compressed at 200 atm pressure.
14. "Space" means the quantity or the volume of gas which a user is allowed to store in the a storage facility.
15. "Storage space" is the space used for storage of natural gas that is owned and/or operated by a natural gas undertaking, including in it the LNG facilities being used for storage, excluding those LNG facilities being used for the activity of production, and facilities exclusively booked for the Transmission System Operator (TSO) while performing its functions
16. "Hydrocarbons" means crude oil and/or natural gas;
17. "LNG facility" means a terminal which is used for the liquefaction of natural gas or the import, export, offloading, or re-gasification of LNG, including ancillary services and temporary storage necessary for the re-gasification process and subsequent delivery to the transmission system, but shall not include any part of LNG terminals used for storage;
  - 17/1. "Small scale plant" is the mobile unit used for the production / storage, transportation and / or distribution of small quantities of LNG and / or CNG.
18. "New infrastructure" means an infrastructure not completed by 1 August 2008;
19. "Responsible Inspectorate" means the state inspectorate responsible for inspecting the natural gas sector, reporting to the responsible minister for hydrocarbons.
20. "Injectability" is the ratio on the quantity of gas which is allowed to be injected in the storage facility by the user of storage facility.

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21. "Gauge Installation" means any gauge, equipment and installation connected to it, including the connector tube, filter, valve, pressure regulating device, seal, box, assembly, telemetry equipment, gas chromatography and flow.
22. "Gas Island" means an isolated system of natural gas, which has not interconnection with the neighbour systems.
23. "Storage capacity" means any combination of space, injectability and deliverability;
24. "Available capacity" it is a capacity, which may be provided to system users or to the network by the system operator
25. "Firm capacity" means the capacity of the transmission network or of the amount of LNG stored at the, contracted for guaranteeing uninterrupted supply, by the TSO or by the storage of LNG system operator respectively;
26. "LNG facility capacity" means capacity at an LNG terminal for the liquefaction of natural gas or the importation, offloading, ancillary services, temporary storage and regasification of LNG;
27. "Capacity" means the maximum amount of gas flow, expressed in cubic meters per unit of normal or in units of energy for every unit of time, which is given to each user in the network, according to the contract of transmission with TSO or other contracts entered with the Storage System Operator or LNG.
28. "Contracted Capacity" is the capacity of the storage or the capacity that the TSO or the LNG system operator has defined for any user in the network, through a transmission contract entered with TSO or other related contracts entered with the Storage System Operator or LNG.
29. "Limited Capacity" is the situation in which an interconnection line cannot provide the transmission of all physical natural gas flow, resulting from demand of market participants, due to the absence or reduction of capacity lines interconnection and / or the national transmission system.
30. "Intermittent Capacity" is the capacity, which can be interrupted by the TSO or Storage System Operator or LNG system according to conditions agreed upon in the transmission contract entered with TSO or Storage System Operator or LNG respectively.
31. "Customer" means a wholesale or final customer of natural gas or a natural gas undertaking, which purchases natural gas.
32. "Wholesale customer" means a natural or legal person other than the TSO or DSO that purchases natural gas for the purpose of resale inside or outside the system to which is connected.
33. "Final customer" means a customer purchasing natural gas for its own use;
34. "Vulnerable customer" means a household customer that due to his social position retains special rights concerning natural gas supply, rights that are guaranteed in exceptional cases in accordance with this law;
35. "Household customer" means a customer who buys natural gas for his/her own household consumption, excluding the commercial and professional activities;
36. "Non-household customer" means a customer who buys natural gas which is not for his own household use, producer and wholesale customers;
37. "Small non-household customer" means a company which has employed 6 to 20 employees, has an annual turnover 150 million ALL which buys natural gas for personal use and not for resale purposes.
38. "Protected customer" means household customers and small enterprises connected to a gas distribution network, and essential social services connected to a gas distribution or transmission network, as well as district heating installations to the extent that they deliver heating to the abovementioned customers, provided that these installations are not able to switch to other fuels and are connected to a gas distribution or transmission network;
- 38/1. "Solidarity protected customer" means a household customer who is connected to a gas distribution network, and in addition, may include one or both of the following:
  - a) a district heating installation if it is a "protected customer" in the country and only in so far as it delivers heating to households or essential social services other than educational and public administration services;
  - b) an essential social service if it is a protected customer in the country, other than educational and public administration services;
39. "Metering Code" is a set of minimum standards required for the measurement and recording of natural gas.
40. "Network codes" is Grid Code and Distribution Code.
41. "Distribution Grid Code" is a set of technical rules that regulate the functioning of the distribution network, and are establish the conditions of service provided by the distribution system operators for users of this system.
42. "Transmission Network Code" is a set of technical rules that regulate the operation of the transmission system, and set conditions of service offered by the Transmission System Operator for transmission system users, in accordance with ENTSO-G's rules.

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43. "Long-term gas supply contract" means a gas supply contract with a duration of more than 10 (ten) years;
44. "Gas supply contract" means a contract for the supply of natural gas, but does not include natural gas derivative;
45. "Take-or-pay contract" means a gas purchase or sale contract which requires the buyer to pay for the gas quantity contracted, whether the gas is consumed by the purchaser or not;
46. "Transport contract" means a contract which the transmission system operator (TSO) has concluded with a network user with the purpose of carrying out transmission of natural gas;
47. "Control" mean the rights, contracts or any other means which, either separately or in combination and having regard to the considerations of fact or a law involved, give the possibility of exercising decisive influence on an undertaking, in particular:
- a) by ownership or the right to use all or part of the assets of an undertaking
  - b) the rights or contracts which give decisive influence on the composition, voting or decisions of the organs of this undertaking.
48. "Trading hub – A common focal point, where multiple inbound and outbound intertwine with each other and within which gas is expected to enter and leave simultaneously toward various directions for trading purposes.
49. "Liquefying of natural gas" mean the process of cooling down of the natural gas under normal conditions up to the temperature of -163oC until it is transformed into Liquefied Natural Gas (LNG).
50. "License" means a right given to a person to engage in operations in the natural gas sector in accordance with the provision of this law.
51. "Linepack" means a quantity of a natural gas stored by compression in gas transmission and distribution systems, but excluding facilities reserved for transmission system operators carrying out their functions;
52. "Direct line" means a natural gas pipeline complementary to the interconnected system, connecting a natural gas source with a customer;
53. "Interconnector" means a transmission line which connects the transmission system between two countries.
54. "Intelligent Metering System" means an electronic device which registers in real time the data consumption of natural gas and communicates this information, at least every day, to the system operator, for the purposes of monitoring and invoicing.
55. "Tariff Methodology" is the act that defines the conditions and manner of calculating tariffs on natural gas regulated activities.
56. "Minister" means the Minister responsible for the energy sector;
57. "Ministry" means the Ministry responsible for the energy sector;
58. "The model of the natural gas market" is a document prepared and approved in accordance with the provisions of this law, which defines the relationship between different participants on the natural gas market.
59. "Operation" means bringing into commercial operation and use of a natural gas system infrastructure in compliance with the conditions defined in the respective licence issued by ERE.
60. "Market Operation" is the activity performed by the market operator, in relation with the natural gas market management and preparing of the financial statements for the market participants, excluding sale or purchase of natural gas, in accordance with the foreseen market regulations.
61. "Operator" is the person in charge to use and control the technical functions of gas installation in accordance with the legislation in force.
62. "Network Operator" means the Transmission System Operator and/or Distributing System Operator.
63. "Storage System Operator" means a natural or legal person who carries out the function of storage and is responsible for operating a storage facility;
64. "LNG system operator" means a natural or legal person who carries out the activity of liquefaction of natural gas, or the import, export, offloading, and re-gasification of LNG and is responsible for operating a LNG facility;
65. "Distribution system operator (DSO)" means a legal person who carries out the function of distribution and is responsible for operating, maintenance, and, if necessary, developing the distribution system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of natural gas;
66. "Transmission system operator (TSO)" means a legal person who carries out the function of transmission and is responsible for operating, maintenance, and, if necessary, developing the transmission system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the transmission of gas;
67. "Market Operator" is the responsible entity, licensed for operation, organization and management of the natural gas market.
68. "Licence Payment" it is the payment defined by ERE for issuing a licence on exercising activity in the natural gas sector.

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69. "Regulatory Payment" it is a yearly payment that the licensed companies in the gas sector pay to ERE for covering the costs of its regulatory activities, based in a methodology approved by ERE.
70. "Energy Community Parties" shall mean any Contracting Party of the Energy Community Treaty;
71. "Person" means a natural or legal person;
72. "Balancing period" means the period within which the off-take of an amount of natural gas, expressed in units of energy, must be offset by every network user by means of the injection of the same amount of natural gas into the transmission network or into the storage of LNG facility in accordance with the transport contract entered with the TSO, other contracts entered with the storage or LNG system operator, the network code and/or other applicable regulations;
73. "Utilisation" means the use and maintenance from technological aspect of the infrastructure of the natural gas system (gas pipelines, LNG or natural gas storage facilities);
74. "Network or system user" means a person supplying to or supplied by the natural gas system, as well as a system operator itself in so far as it is necessary for it to carry out its respective functions;
75. "Responsibility of balancing the natural gas market" means the obligation of market participants to balance the amount of gas entering the system and leaving the system in the calculated period and it is financially responsible for any deviation.
76. "Natural-gas processing" means a complex industrial process designed to clean raw natural gas by separating impurities and various non - methane hydrocarbons and fluids to produce what is known as pipeline quality dry natural gas which can be transported throughout the pipeline system.
77. "Virtual Trading Point" means the trading of gas after its entry into the transmission system, but before exiting from the transmission system, including the gas storage system.
78. "Participants" mean entities operating in the natural gas system.
79. "Long-term planning" means the planning of supply and of transmission and distribution capacity of natural gas undertakings on long-term basis for meeting the natural gas demand, diversification of sources and security of supply for customers.
80. "Producer" means a natural or legal person that produces natural gas.
81. "Re-gasification" means the process of warming up of the LNG until it is transformed into gas state.
82. "Rules of practice and procedure" means the rules approved by the Board of Commissioners of ERE defining the procedures and deadlines that ERE applies in its proceedings.
83. "Technical and safety rules" mean the technical rules and safety criteria establishing the minimum requirements of technical design, construction and operation of natural gas transmission and distribution systems, LNG installations and storage facilities, direct lines, as well as any other facility, equipment or installation falling under natural gas sector.
84. "Market Rules" means the rules that determine the mode of operation and management of the market, the registration of participants, balancing responsibility of market participants of natural gas, the rules for balancing the natural gas system, rules for calculating imbalance of parties responsible for balancing, rules for the financial responsibilities of balancing responsible parties in the event of imbalance, as well as other issues related to the functioning of the market
85. "Virtual flow" means flow of purchased gas, where in reality the gas does not flow from the purchasing point toward the costumer, but the purchased amount of gas has been replaced by the gas flowing from costumer point toward the purchased place.
86. "Network" means a pipeline interconnected system;
87. "Upstream pipeline network" means any pipeline or network of pipelines operated and/or constructed as part of an oil or gas production project, or used to convey natural gas from one or more such projects to a processing plant or terminal or final coastal landing terminal;
88. "Energy Community Secretariat" means the institution of Energy Community functional based on the Energy Community Treaty;
89. "Security" means both security of supply of natural gas and technical safety;
90. "System" means any transmission networks, distribution networks, LNG facilities or storage facilities owned or operated by a natural gas undertaking, including *linepack* and its facilities serving as ancillary services and those necessary for access to transmission and distribution systems and LNG facilities;
91. "Interconnected system" means a number of systems which are linked with each other;
92. "Ancillary services" mean all services necessary for access to and the operation of transmission and/or distribution networks, LNG facilities, and/or storage facilities, including load balancing and blending, excluding the facilities reserved exclusively for the transmission system operator;
93. "Public Service" is the service provided by a licensee operating in the natural gas sector, related to the safety and quality of supply, regulated prices in the natural gas sector, the efficiency of natural gas, energy from renewable sources, environment protection, the fulfilment of which does not affect competition, except when necessary to ensure public service in question.

94. "Firm services" mean services offered by the TSO or by the storage or LNG system operator in relation to firm capacity;
95. "Supply undertaking" means any person who carries out the function of natural gas supply;
96. "Natural gas undertaking" means any person carrying out at least one of the following activities: production, transmission, distribution, supply, purchase or storage of natural gas, including LNG, which is responsible for the commercial, technical and/or maintenance tasks related to those functions, but shall not include end-use customers;
97. "Natural gas integrated undertaking" means a vertically or horizontally integrated undertaking;
98. "Horizontally integrated undertaking" means a natural gas undertaking performing at least one of the activities of production, transmission, distribution, storage, or supply of natural gas and another activity outside the natural gas sector;
99. "Related undertakings" means affiliated undertakings and/or associated undertakings under the provisions of the legislation on competition protection.
100. "Vertically integrated undertaking" means a undertaking or a group of undertakings, licensed on natural gas sector where the same person or the same persons are entitled, directly or indirectly, to exercise control, and where the undertaking or group performs at least one of the functions of transmission, distribution, operation of LNG or storage facilities, and at least one of the functions of production or supply of natural gas;
101. "Distribution" means the transport of natural gas through pipeline networks with a view to its delivery to customers, but not including supply;
102. "Tariff" means the price for the provided service by entities that carry out regulated activities on transmission and distribution of natural gas, as well as access to storage and LNG facilities, set on the basis of tariffs calculation methodology.
103. "Metering data" means the data collected and transferred from a meter installation, including metering reader (contactor), the identification number of the metering installation, relevant balancing period, energy consumption, volume and quality of natural gas consumed.
104. "Transmission" means the transport of natural gas through a network of high-pressure pipelines, other than an upstream pipeline network and other than a part of highpressure pipelines primarily used for distribution of natural gas, with a view to its delivery to customers, but not including supply;
105. "Gas Trader" means a company that performs gas trade activities, as a market activity, licensed for exercising this activity
106. "Gas trade" buying and selling natural gas, excluding the sale of it to the end-use customers.
107. "Trade" is the wholesale purchase and sale of natural gas.
108. "Spot" market means the financial public market in which financial instruments and commodities are traded for immediate delivery.
109. "Primary market" means the market of the capacity traded directly by the TSO or by the storage of LNG system operator;
110. "Secondary market" means the market where capacities are traded except capacities marketable on the primary market.
111. "Third country" shall mean any country which is not the Energy Community Contracting Party, or a member of the European Economic Area;
112. "Balancing act" means an action taken by the Transmission System Operator to change inflows or outflows of gas in the transmission network, with the exception of those actions related to the amount of not calculated gas, which is taken from the system, and gas used by the Transmission System Operator for the operation of the system.
113. "Activity" –means the activity related to the production or the usage of installations and their facilities as well as services linked with them.
114. "Activity of study and design" means the activity that relates to the study, design, supervision, monitoring, technical check, consultancy and technical administration, operation within processes of exploration, production, processing, transportation, storage, trading and utilization of hydrocarbons.
115. "Compliance Program" is a program developed by the system operators and approved by the ERE, in which are defined the measures needed to be taken by the operator to ensure the non-discriminatory conduct, as well as methods to be applied for monitoring its implementation.
116. "Compliance Officer" is a natural or legal person, independent, determined by the system operator, with the prior approval of the ERE, in charge of monitoring and reporting on the implementation of the compliance program.

## CHAPTER II NATURAL GAS SECTOR POLICIES

### Article 5

#### Natural Gas Sector Policies

1. The Council of Ministers is responsible for the general policies of the development of the natural gas sector in Albania, as well as setting incentives that apply to operators of natural gas sector, in accordance with the economic development policies and other sectors of the country.
2. The Ministry responsible for energy:
  - a) is the responsible institution for drafting of development policies in the natural gas sector;
  - b) drafting and updating the National Energy Strategy, which is approved by the Council of Ministers;
  - c) collecting and analysing data and information on the balance of energy on a national level, including natural gas sector.
3. In executing its responsibilities under this law, the Ministry shall consult with other governmental authorities in the energy sector, the ERE, as well as natural gas sector stakeholders and interested parties.
4. The Ministry shall develop policies and programs for:
  - a) implementation of natural gas energy objectives and policies
  - b) encouragement of investments in the natural gas sector, including the possible fiscal incentives;
  - c) environmental protection measures in the natural gas sector;
  - ç) development of safe and sustainable networks and other natural gas infrastructure;
  - d) harmonization with the European Union standards and regulations in the natural gas sector and ensuring interoperability of Albanian natural gas systems with regional and European regional systems;
  - dh) development of programs for protection of vulnerable customers in collaboration with other authorities and State institutions.
- d) assure a secure and sustainable development of the natural gas sector.
5. The Minister, in compliance with the criteria and procedures established by a decision of the Council of Ministers, issues professional certificates for specialists performing studying - designing and implementing activities in the fields defined in this law, and in the activities of exploration, production, processing, transportation, storing and trading of hydrocarbons in general. ~~For exercising the study design activity, natural or legal persons, must obtain a licence in the category IV.4.B, under law no. 10.081, dated 23.02.2009, "On the licenses, authorizations and Permits in the Republic of Albania".~~  
"To perform the study design activity, the natural and legal persons shall have registered to the commercial register, as activity subject, the performance of this activity and shall have employed specialists that are equipped with professional certificate."

### Article 6

#### Security of gas supply

- ~~1. The Council of Ministers, at the proposal of the Minister, shall adopt the Emergency Plan, which shall specify adequate minimum security of supply standards and regulate the provisions for securing a reliable and efficient gas supply. The Emergency Plan inter alia shall contain:~~
  - ~~a) instruments and measures ensuring that supplies for protected customers are secured to an appropriate and clearly defined extent at least in the event of:~~
    - ~~i) a partial disruption of supplies;~~
    - ~~ii) ii) extremely cold temperatures during a determined peak period;~~
    - ~~iii) iii) periods of exceptionally high gas demand during the coldest weather periods;~~
  - ~~b) a schedule for the reduction or cessation of gas supply to particular categories of customers in the case of a crisis situation;~~
  - ~~c) the role and responsibilities of natural gas undertakings and of non household gas customers, taking into account different extents to which they are affected in the event of a crisis situation in the natural gas sector;~~
  - ~~d) requirements for storage facilities, with the aim of achieving the security of supply standards as well as possible contribution of storage, either located in Albania or another Energy Community Party;~~

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~~dh) other relevant measures and actions to be taken to remove or mitigate the impact of a gas supply disruption, as applied considering clearly defined crisis levels.~~

~~2. ERE është autoriteti përgjegjës për monitorimin e sigurisë së furnizimit. The Emergency Plan shall not be discriminatory nor shall foresee unreasonable obligations on new or existing participants of gas market.~~

~~3. The Emergency Plan shall not be discriminatory nor shall foresee unreasonable obligations on new or existing participants of gas market.~~

~~4. The Emergency Plan shall be made available to the Energy Community Secretariat.~~

~~5. If an adequate level of interconnection is available, the Ministry or the natural gas undertaking in charge may take the appropriate measures to achieve the security of supply standards using storage facilities located within the territory of the other Contracting Party. For this purpose, possible cooperation with authorities and/or natural gas undertaking of EU member or another party of Energy Community, may apply, including entering into bilateral agreements. The application of these measures shall not impede proper functioning of the internal gas market.~~

## Article 6

### Security of natural gas supply

1. The Ministry responsible for electricity, after being consulted with natural gas undertakings, the respective organizations that represent the natural gas customers interests, those of the industrial and household customers, including electricity generators, the electricity transmission system operators, in case of declaring a crisis situation of natural gas supply according to the definitions of Article 6/1 of the Law shall draft:

a) a prevention action plan, that contain the necessary measures to eliminate or mitigate the identified risks, including the effects from the implementation of energy efficiency and the demand stimulation measures in common and natural risk assessment and according to the definitions of points 3 and 4 of this Article;

b) emergency plan that contains the measures that shall be taken to eliminate or mitigate the influence of a gas supply interruption according to the definitions of points 3 and 5 of this Article.

2. The measures to guarantee natural gas supply safety, that contains a prevention action plan and an emergency plan shall be clearly defined, in a transparent, proportional, non-discriminatory, verifiable approach, without distorting competition or the effective operation of the internal natural gas market and not impede the natural gas supply of the countries that are part of Energy Community or other states members of the European Union.

3. The Council of Ministers, with the proposal of the minister approves:

a) The emergency action plan drafted according to point 1 of this Article, on which are defined the minimum safety standards of natural gas supply, as well as the rules to guarantee the safe and effective supply;

b) The preventive action plan, drafted according to point 1 of this Article, on which are defined the necessary measures to eliminate and mitigate the risks identified for the natural gas safety of supply, but also the minimum standards for the safety of natural gas supply, as well as the rules to guarantee the safe and effective supply.

4. The preventive action plan shall contain:

a) a description of the effect measures included on the plan for the internal energy market operation, including the obligations mentioned on letter “c” of this point;

b) obligations of natural gas undertakings and other respective bodies, that may influence to safety of natural gas supply;

c) information on all public service obligations regarding the safety of gas supply;

ç) the measures, volumes and necessary capacity to comply the infrastructure standard and the gas supply standard;

d) other scheduled preventive measures to direct the identified risks for the risk assessment, such as those regarding the need:

i. to strengthen the interconnections between the countries that are a party of Energy Community;

ii. to further improve the energy efficiency and to reduce the request for natural gas;

iii. to diversify the gas ways, the sources for gas supply and regional usage of storage and LNG existing capacities, as well as to store as much natural gas supply as possible for all the customers.

5. The emergency plan shall contain:

a) the instruments and measures that accurately and clearly guarantee the supply of the protected customers in cases of:

i. a partial interruption of supply;

ii. of the extremely cold atmospheric conditions on maximum load period;

iii. when there is a high request for gas during the coldest winter period.

- b) the program for the reduction or interruption of natural gas supply of specific customer categories in the event of a crisis;
  - c) the role and responsibilities of natural gas undertakings of non-household customers, considering the level that they may be damaged from a possible crises in natural gas sector;
  - ç) the requests for the storage plants, to realize the safety of supply standards, as well as the possible contribution of the storage, when this is in Albania or any other country member of Energy Community;
  - d) other measures and actions that shall be undertaken to remove or mitigate the interruption causes of natural gas supply, depending on the crises level.
6. Natural gas market participants shall plan and take the measures for a safe natural gas supply, according to the standards, as provided on point 3 of this Article, and also are responsible for natural gas supply within the purpose of this activity.
7. ERE is the responsible authority for monitoring the safety of supply.
8. The preventive action plan and the emergency plan are available to Energy Community Secretariat.
9. When the country has an adequate level of interconnection, the ministry or the undertaking that is responsible for natural gas shall take appropriate measures in order to achieve security of supply standards, using storage facilities located in the territory of the other Contracting Party. To this end, it may cooperate with the authorities and / or natural gas undertakings of an EU country or another party of the Energy Community, including by entering into bilateral agreements. The application of these measures shall not hinder the normal functioning of the domestic/local market.
10. The preventive action plan and the emergency plan shall be updated every four years or more frequently in cases where the security of the gas supply is compromised or at the request of the Energy Community Secretariat.

## **Article 6/1**

### **Declaration of a crisis situation in the supply of natural gas**

1. The three levels of the crisis situation are as follows:
- a) level of early warning (early warning), when there is concrete, serious and reliable information that an event may occur that is likely to result in a significant deterioration of the gas supply situation and is likely to lead alert or trigger emergency level. The early warning level can be activated by an early warning mechanism;
  - b) alarm level (alarm), if there is an interruption of gas supply or an extremely high demand for gas, which seriously further exacerbates the situation of gas supply, but the market is still able to manage that interruption or demand without the need to use non-market based measures;
  - c) level of emergency (emergency), when there are extremely high demands for gas, significant interruption of gas supply or other significant deterioration of the gas supply situation and all relevant market-based measures are implemented, but gas supply is not sufficient to meet the remaining demand, so additional non-market-based measures shall be introduced in order, particularly, to protect gas supply for protected customers in accordance with gas supply standards.
2. The Ministry, following the approval provided with the decision of the Council of Ministers, shall declare one of the levels of crises mentioned in point 1 of this article, informs the Energy Community Secretariat, as well as the responsible authorities of the countries that are parties of the Energy Community or Member States of the European Union, with which it is directly connected and communicates to them all the necessary information, in particular, regarding the actions that shall be taken.
3. If the ministry has declared an "emergency" and indicated that cross-border action is necessary, any increase in the gas supply standard or additional obligations imposed on natural gas undertakings shall be temporarily reduced to the level specified in the emergency plan.
- The obligations mentioned in the first paragraph of this point cease to apply immediately when the ministry declares the end of the "emergency" state after receiving the notification and approval from the Council of Ministers, or when the Energy Community Secretariat determines that the declaration of the state of "emergency" does not exist or it is no longer justified.
4. When the ministry, after receiving the information and approval by the Council of Ministers, declares an "emergency", it follows the actions set out in the emergency plan and immediately informs the Energy Community Secretariat and the relevant authorities of the Member States with which it is affiliated directly, especially in relation to the actions it intends to take. In exceptional and justified circumstances, the ministry shall take actions that deviate from the emergency plan that is approved by the Council of Ministers.

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The Ministry shall immediately inform the Energy Community Secretariat and the relevant authorities of the Member States of the European Union with which it is directly connected, regarding such action and shall explain the deviation.

5. If the ministry, after receiving the information and approval from the Council of Ministers, declares the end of one of the crisis levels mentioned in point 1 of this article, it shall inform the Energy Community Secretariat and the relevant authorities of the Member States of the European Union with which it is directly connected.

## Article 7

### **The authority in charge for supervision of supply security**

1. The Ministry is the responsible authority for the supervision of natural gas supply security and shall in particular cover:
  - a) proper implementation of the supply security minimal standards, as stipulated in article 6 of this law;
  - b) the balance of supply and demand on the natural gas market of Albania;
  - c) long-term gas supply contracts imported from third countries;
  - ç) the existence of adequate liquidity of gas supplies;
  - d) the level of used gas and of the withdrawal capacity of gas storage;
  - dh) the level of interconnections of the natural gas system of Albania with the systems of its neighbouring Energy Community Parties;
  - e) the level of expected future demand and available supplies and, consequently, the foreseeable gas supply situation in function of demand, supply autonomy and available supply sources;
  - ë) Additional capacity planned or under construction;
  - f) the quality and level of maintenance of the networks;
  - g) measures to cover peak demand and to deal with shortfalls of one or more suppliers.
2. By 31 July each year the Ministry, in collaboration with ERE, shall prepare and publish a report outlining the findings resulting from the monitoring of those issues specified in paragraph 1 of this article, as well as any measures taken or envisaged to address them.
3. The report referred to in paragraph 2 of this article shall cover the following issues:
  - a) the competition state in the natural gas market and the impact that creates the application of the measures taken pursuant to article 6 of this law on all participants in the natural gas market;
  - b) the levels of storage capacity;
  - c) the extent of long term gas supply contracts concluded by companies established and registered in Albania, and in particular their remaining duration, based on information provided by the companies concerned, but excluding commercially sensitive information, and the degree of liquidity of the gas market;
  - ç) the regulatory frameworks to provide adequate incentives for new investment in exploration and production, storage, LNG and transport of gas, taking into account article 78 of this law.
4. The report prepared and published by the Ministry shall be submitted to the Council of the Ministers, as well as to the Energy Community Secretariat.

## Article 8

### **Safeguard measures for the security of supply**

1. In the event of a sudden crisis in the energy market or where the physical safety or security of persons, apparatus or installations or system integrity is threatened, the Ministry in coordination with respective authorities, may undertake the necessary temporary safeguard measures. Temporary application of safeguard measures requires for these measures to be clearly limited in time and applied no longer than for a justified period which is reasonably necessary to address the emergency situation and to alleviate its threats.

2. Measures undertaken in cases set forth in paragraph 1 of this article shall be applied and coordinated duly following the Emergency Plan, as referred to in article 6 of this law, in a way to cause the least possible disturbance to the functioning of the internal market and shall not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen. All such measures shall be applied temporarily in an objective, transparent and non-discriminatory manner.

3. The Minister shall immediately notify the Council of Ministers and, when he considers necessary, other countries party of Energy Community with which Albania has cooperation relationship in the natural gas sector, concerning the safeguard actions according to paragraph 1 of this article.

4. The Minister without delay shall notify the Energy Community Secretariat on these safeguard measures undertaken according to paragraph 1 of this article.

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5. In cases where the crisis situation in the natural gas sector cannot be adequately managed with national measures, the Minister shall notify the Chair of the Security of Supply Coordination Group of the Energy Community, which shall forthwith convene an ad hoc meeting of the Security of Supply Coordination Group for examination and, where appropriate, assisting Albania and/or other Energy Community Parties concerned in coordinating the measures taken at national level to deal with the crisis situation in the natural gas sector.

#### ~~Article 9~~

#### ~~Regional cooperation~~

~~In order to safeguard a secure supply on the internal market in natural gas, competent authorities of Albania shall cooperate with respective competent authorities of other neighbour countries, members of EU or Energy Community contracting Parties in order to promote regional and bilateral solidarity.~~

#### Article 9

#### Regional cooperation and solidarity

1. In order to safeguard a secure supply on the internal market in natural gas, the ministry and the competent local authorities during the process for drafting the risk assessments and the preventive action plan and also the emergency plan, shall cooperate with the respective competent authorities of the neighbour countries, members of EU, as well as other parties of the Energy Community in order to promote regional and bilateral cooperation. This cooperation may include, in particular, the identification and interaction of risk correlations and consultations to ensure cross-border coherence of preventive action plans and emergency plans.

2. If during the process of drafting the risk assessments, the preventive action plan and the emergency plan, in order to safeguard a secure supply on the internal market in natural gas, it shall be required the implementation of the solidarity measure with a country that is part of the Energy Community or a Member State of the European Union with which a direct connection to the natural gas network is established, the ministry, the Transmission System Operator or the Distribution System Operator shall take the necessary measures to ensure that the gas supply throughout the country for customers, with the exception of "solidarity protected customers", to be reduced or interrupted to the appropriate extent as long as the gas supply to "solidarity protected customers" is not satisfactory.

The Ministry and other competent authorities in the implementation of the preventive action plan and the emergency plan shall ensure that the respective volume of gas is effectively distributed to protected customers within the framework of solidarity throughout the country.

3. In order to guarantee a secure supply of natural gas, including regional cooperation and solidarity, Albania as a party of the Energy Community shall coordinate activities with other countries that are part of the Energy Community and shall inform the Energy Community Secretariat on the preventive action plan and the emergency plan, as well as regarding the solidarity measure, if such step shall be taken.

#### Article 10

#### Technical and safety rules in gas sector

1. The Council of Ministers, with the proposal of the Minister, shall approve the technical rules and safety criteria establishing the minimal requirements of technical design, construction and operation concerning the transmission and distribution systems, LNG facilities, storage facilities, direct lines, as well as any other facility, equipment or installation falling under natural gas sector in order to ensure the safe-operation of the systems.

With the proposal of the Minister, the Council of Ministers shall approve the technical rules of performing the natural gas storage operation at hydrocarbon fields or other underground facilities.

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2. Until the approval of these rules by the Council of Ministers in accordance with point 1 of this Article, the Minister shall define the technical rules and safety criteria to be implemented in the interim period in compliance with the norms of EU countries.
3. The control of implementation and observation of the technical rules provided for in paragraph 1 of this article in the natural gas sector shall be carried out by Responsible Inspectorate according to the legislation in force.
4. Entities exercising their activity in accordance with the provisions of this law, are responsible for carrying out these activities in compliance with the technical rules and standards as well as they must comply with the terms and conditions for the environmental protection as specified under this law or other statutory laws and relevant by-laws.

## Article 11

### **Construction and use of natural gas pipelines and infrastructure**

1. The construction and utilisation of natural gas transmission and distribution pipelines, LNG facilities, storage facilities of natural gas, direct lines, the interconnection of the Albanian natural gas system with the neighbouring systems, as well as any other facility, equipment or installation falling under natural gas sector shall be made by approval of the Council of Ministers.

2. With the proposal of the Minister, the Council of Ministers shall approve the conditions and procedures for granting the permits for construction and entered between the Ministry and the investor must include at least the following conditions:

- a) safe operation of natural gas system;
- b) conditions for establishing the location and land use;
- c) energy efficiency;
- ç) conditions of using the primary energy resources;
- d) protection at work and the safety of the persons and the assets;
- dh) environment protection;
- e) financial capability of the applicant to carry out the natural gas facility construction verified by bank documents or similar documents which prove the financial capability of the applicant;
- ë) capacity contribution for natural gas transport or storage to increase security of supply;
- f) general conditions of the agreement achieved between the responsible ministry and the investor which shall construct and use the natural gas infrastructure;
- g) the conditions over the document which proves the ownership over the immovable property, when the natural gas facility is planned to be constructed;
- gj) list of documents requested for obtaining approval;
- h) applicable tariffs for the approval of construction and usage of pipelines and the natural gas infrastructure;
- i) conditions of refusal of approval.

3. The permit shall be granted for a term of up to 30 years with the right to be renewed. In cases where the permit is not renewed after its expiration, the infrastructure shall be dismantled, in compliance with environmental standards stipulated by the law or the property rights over the infrastructure shall be transferred to the State or to the other investor under the terms and conditions provided in the agreement stipulated in point 2, paragraph f, of this article. In case of the transfer of the property rights to the State, the agreement shall provide the terms and conditions of such transfer between parties included in the signed contract.

4. The Council of Ministers, except for the refusal cases, defined in point 2, paragraph (i) of this Article, with the purpose of efficient operation of the gas infrastructure, has the right to refuse the approval for the construction and usage of the pipeline distribution system in a particular area, in case that for the area has been previously submitted an investment proposal or if the existing infrastructure capacity of gas in that area covers the requested capacity.

5. Refusal to grant permission may be appealed by the applicant under the terms and conditions stipulated in this law and/or other applicable laws.

The permit granted according to paragraph 1 of this article shall not exclude obtaining other permits, licenses or other authorisations, as the case may be, according to the legislation on the territorial planning and development of the natural gas infrastructure as defined on paragraph 1 of the very article as well as the environmental protection and compliance with technical safety rules in force.

6. Modification of the permit may be required by the holder of the permit in accordance with paragraph 1, of this Article. The modification of the approval must not fall out of the permit's object for which this approval was provided.

7. Permits issued in compliance with this article cannot be transferred.

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## Article 12

### Property rights

1. For the security of delivery of services regarding activities of natural gas transmission and distribution pipelines, LNG facilities, underground storage facilities, direct lines, the interconnectors of the Albanian natural gas system with the neighboring systems, as well as any other facilities, equipment or installation falling under natural gas sector, the subject being licensed in accordance with the provisions above of article 11, may perform one or more of the rights as follows regarding property:

- a) the usage right;
- b) the right of easement;
- c) the right of expropriation;
- ç) the right of placing the gas system installation.

2. When exercising the rights, according to point 1, the damages incurred by the following actions:

- a) placement of signs, measurements or tests;
- b) installation of equipment, access or performance of work upon them;
- c) the prevention or limitation to use the property,

the users or the owners of the property shall be reimbursed in compliance with the Civil Code and the law on expropriation and temporary takings of private property for public interest.

3. Within protected natural areas, the rights specified in paragraph 1 of this Article are provided with prior approval of the authority responsible for environmental protection, in accordance with the legislation on protected areas.

In areas that are administered by local government units prior approval from the relevant local unit is needed.

4. In cases when rights stipulated under paragraph 1 of this article are terminated, the licensee should take all the precautionary measures fully rehabilitation of the property in possession.

5. The Transmission System Operator and the Distribution System Operator manage the networks and take all the measures that during their construction and operation all the technical and safety conditions are met, including the observation of safety distances between networks in relation with other objects belonging to third parties.

6. The transmission and distribution system operators as well as the operators of of the LNG facilities, underground storage facilities, direct lines, interconnectors of the Albanian natural gas system with neighboring systems, as well as any other facility or installation related to the natural gas sector, carry no liability for claims arising from natural or legal persons on damages incurred due to the (breach) of distance of transmission or distribution networks in relation to any object or facility either owned by them or under possession, in case when the building or facility or part of it have been built or placed within the restricted distance after the construction of distribution or transmission network.

7. Transmission System Operator and Distribution System Operators, and Operators of LNG Facilities, underground storage facilities, direct lines, interconnectors of the Albanian natural gas system with neighboring systems, are exempted from any application of taxes or fees set by the local government on the assets, networks and related installations belonging to those operators.

## CHAPTER III REGULATION OF NATURAL GAS SECTOR

### SECTION I ENERGY REGULATORY ENTITY

## Article 13

### Regulatory authority

1. The Energy Regulatory Entity (ERE) shall be the responsible authority for regulation, of the natural gas activities, except for the activity of natural gas exploration and production.

2. ERE shall exercise its powers impartially and transparently in compliance with the this law and the law on electricity power sector.

3. ERE establishment and operation are regulated in accordance with the Law no. 43/2015, "On Power Sector".

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## Article 14

### **Regulatory fees**

ERE shall define and approve the license application fees and regulatory fees to be paid by licensees in the gas sector in accordance with the methodology approved by ERE.

## Article 15

### **General objectives of ERE**

1. ERE objectives in carrying out the regulatory tasks specified in this law are:

- a) promoting an internal competitive market, environmentally friendly and secure for all customers by ensuring appropriate conditions for the effective and reliable operation of gas networks in close collaboration with the Energy Community, and regulatory authorities of other countries;
  - b) engaging in the development and proper function of a regional market within the Energy Community.
  - c) eliminating restrictions on trade in natural gas between the members of Energy Community including developing appropriate cross-border transmission capacities;
  - ç) engaging in the development of secure, sustainable and non-discriminatory systems and for the customer protection, in compliance with the development, energy efficiency objectives of natural gas, as well as and the integration of large-scale energy production from renewable energy sources;
  - d) ensuring that the system operators and system users are granted appropriate incentives, in both short and long term, to increase efficiencies in system performance and foster market integration;
  - dh) ensuring that customers benefit through the internal market operation, promoting competition and customer protection;
- guaranteeing high standards fulfilment of public service for natural gas, contributing to the protection of vulnerable customers and contributing to the compatibility of necessary data exchange process for customer switching.

2. In fulfilling the objectives laid down in paragraph 1 of this Article, ERE cooperates with state institutions and other independent institutions.

## Article 16

### **ERE responsibilities**

For exercising its activities, ERE shall have the following responsibilities:

1. Drafts, approves and publishes the methodology for:

- a) setting fees for connection and tariffs, terms and conditions for access to the natural gas networks, and tariffs for access to the LNG facilities which shall allow the necessary investments in the networks, which shall allow network efficiency and of facilities of LNG;
  - b) setting fees for the supply of natural gas to household customers and small nonhousehold customer, as well as the fees for the supply of last resort;
  - c) setting tariffs for access to cross-border infrastructures, including the procedures for the allocation of capacity and congestion management.
2. setting tariffs in accordance with methodologies referred in paragraph 1 of this article, in line with the procedures and criteria established by the ERE, as well as monitoring the application of tariffs and fees.
3. monitoring the TSO and the Distribution System Operator, on their obligations under this law.
4. Monitoring the implementation of the obligations for guaranteeing the transmission and distribution access including:
- a) monitoring and supervising the implementation of the rules for the allocation of interconnection capacity;
  - b) monitoring the implementation of the obligation to publish sufficient information from the TSO and DSO for interconnections, grid usage and capacity allocation to interested parties, including fees, given confidential commercial information;
  - c) monitoring any mechanism for the limited capacity within the national gas system;
  - ç) monitoring and supervising the implementation of the rules on derogations from the provision of third-party access under commitments "take or pay" and other agreements between companies of the natural gas system and users.

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5. Monitoring the implementation of the congestion management regulations in the natural gas transmission networks including interconnectors and in cases where it is in the public interest, it takes a decision on the congestion management. To that end, the TSO or market operators shall submit its congestion management rules, including capacity allocation, for the national regulatory authorities.
6. Monitoring and reviewing the access conditions to storage, *linepack* and other ancillary services as provided for in article 63 of this law, as well as monitoring the correct application of the criteria that determine whether a storage facility falls under paragraph 5 or 7 of article 63 of this law.
7. Supervises the implementation of public service obligations following the requirements stipulated in this law and other applicable legal acts.
8. Supervises the effective implementation of end-users protection measures by companies of natural gas sector.
9. Ensuring that customers may effectively choose new suppliers and switch them under the terms and conditions stipulated in this law and other applicable legal acts.
10. Adopting the general conditions of supply, including establishment of transparent general contractual terms and conditions.
11. Granting, modification, transferring and withdrawing of licenses for natural gas undertakings, in accordance with Article 22 of this law.
12. Approving the investment plans of the licensees in the natural gas sector, as well as monitoring them.
13. Setting minimum requirements for the maintenance and development of the transmission system, including interconnection capacity.
14. Approval of the accounting unbundling guidelines to ensure there are no cross-subsidies among sector activities, including regulations regarding how the accounts of natural gas undertakings are to be kept and audited.
15. Preserving the confidentiality of commercially sensitive information of gas undertakings and other sector participants.
16. Defining the dispute resolution mechanisms for natural gas undertakings and between them and end users.
17. Determining exemptions for new infrastructure under the terms and conditions stipulated in article 81 of this law.
18. Setting minimum standards and requirements regarding quality of service and supply, specifically regarding the time taken by transmission and distribution system operators to make connections and repairs, as well as monitoring their implementation.
19. Monitoring the natural gas undertakings on the implementation of the transparency obligation, as well as wholesale prices applicable by the natural gas undertakings.
20. Monitoring the level and effectiveness of market opening and competition at wholesale and retail levels, including on natural gas exchanges, prices for household customers, prepayment systems, disconnection rates, charges for and the execution of maintenance services and complaints by household customers, as well as any distortion or restriction of competition, including any important information, and bringing any relevant cases to the Competition Authority.
21. Establishing mechanisms to avoid any abuse of a dominant position, which creates negative consequences for the legitimate interests of customers.
22. Monitoring the occurrence of restrictive contractual practices, including exclusivity clauses which may prevent large non-household customers from contracting simultaneously with more than one supplier or restrict their choice to do so, and, informing the Competition Authority of such practices.
23. Respecting contractual freedom with regard to interruptible supply contracts, as well as with regard to long-term contracts provided that they are compatible with the legislation in force.
24. Approves the monitoring and information reporting requirements applicable to natural gas undertakings to ensure effective and efficient administration of this law.
25. Cooperates with the regulatory authorities of other neighbouring countries, and with the Regulatory Board of the Energy Community and the Secretariat of the Energy Community for the harmonization of the regulatory framework for the development of the regional market of natural gas, including cross-border exchanges in natural gas and rules for management interconnection capacities.
26. Ensures obligation fulfilment by natural gas undertakings regarding the access of end-users on the data consumption measurement, which should be made available in a standard and easily accessible format.
27. Approves the methodology for calculating the price for ancillary and balancing services, the proposal of the responsible operator.
28. All ERE decisions shall be published in the Official Gazette, except for the decisions of individual nature.

## Article 17

### ERE rights

1. ERE shall have the following rights:
  - a) to require for any information, which is relevant for full and proper implementation of its competences, in accordance with this law, legislation in force, applicable by any authority, other State institution, undertaking or person, which possess such information;
  - b) to perform public consultations, as regulated under articles 18 and 19 of this law, whenever it is required for collection of necessary information, harmonisation of regulatory practices, justification of intended decisions, or evaluation of proposed legal and/or regulatory solutions;
  - c) collect data on the functioning of the natural gas market and to establish the necessary measures and in a right proportion on promoting effective competition and ensure the proper functioning of the natural gas market;
  - ç) issue decisions binding for all the licensed in the natural gas sector;
  - d) impose administrative, effective, proportionale and dissuasive measures to licensees;
  - dh) require from the TSO, the Distribution System Operator, as well as storage and LNG system operators, if necessary, to modify the criteria and conditions, including fees applied by these operators, to ensure that they are proportionate and applied in a nondiscriminatory manner;
  - e) set provisional transmission or distribution fees, in case the TSO or the Distribution System Operator delays in calculation and submission of respective fees. In this case, where the tariffs deviate from those provisional tariffs, ERE set the necessary compensatory measures;
  - ë) resolve disputes under the provisions of Article 98 of this Law.
2. ERE shall exercise the rights set forth in point 1 of this Article, notwithstanding that certain issues are included in the area of responsibility of other bodies.
3. ERE decisions can be appealed to the Administrative Court, Tirana, within 45 days from the date of publication in the Official Journal.
4. ERE decisions should be reasoned. These decisions are made available to the public, while maintaining confidentiality about commercial information.

## Article 18

### Public consultations and cooperation

1. ERE shall publish the initiated draft by-legal acts, except of the individual acts or decisions for settling the dispute, in order to provide the interested parties the right to submit its comments, remarks and proposals for a reasonable time-frame.
2. ERE shall approve the regulation for public consultations, where as much as it is possible shall consider the procedures and terms of the legislation in force per public announcement and consultation, where inter alia are foreseen the condition and procedures, formal requirements and public announcement of information. ERE, shall publish the results of public consultations, except for any confidential or otherwise commercially sensitive information.
3. While preserving its independence, and consistent with the principles of better regulation, ERE shall, consult with the TSO and/or other natural gas undertakings, and shall closely cooperate with other competent authorities for certain cases.

## Article 19

### Cooperation with other authorities

1. In the framework of realizing the duties and responsibilities stipulated under this law, ERE shall consult and cooperate with the Ministry Responsible for Energy.
2. ERE shall cooperate with the Competition Authority, including, but without limitations to the obligation to inform the Competition Authority for any breach of law which impacts the natural gas market opening and competition on the market.
3. ERE shall cooperate with other regulator authorities in Albania, including, but without limitations, informing them of breach of law identified while monitoring the level and effectiveness of the natural gas market opening and competition at the market.

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4. ERE shall consult and cooperate with competent regulatory authorities of the Energy Community Parties, and shall provide necessary information for the fulfilment of their tasks, and shall request for such information respectively. Regarding the exchanged information, ERE shall ensure the same level of confidentiality as that required of the originating authority

5. ERE shall cooperate at the international level, as referred to in paragraph 4 of this article, in order to:

a) foster the creation of operational arrangements in order to enable an optimal management of the network, promote joint gas exchanges and the allocation of crossborder capacity, and to enable an adequate level of interconnection capacity, including through new interconnections, within the region and between regions to allow for development of effective competition and improvement of security of supply, without discriminating between supply undertakings in different Energy Community Parties;

b) coordinate the development of all network codes for the TSO and other natural gas market participants;

c) coordinate the development of the congestion management rules.

6. ERE shall have the right to enter into cooperative arrangements with any other competent regulatory authority to foster regulatory cooperation.

7. ERE must ensure full implementation of any regulatory arrangements agreed in the context of the co-operation for major cross-border projects exempted in accordance with Article 78 of this law. ERE shall not in the exercise of its powers under Articles 33 to 49 of this law conflict with the regulatory arrangements as so established through the co-operation procedures established under paragraph 6 of this Article.

8. ERE is obliged and shall act according to and implement, all of the decisions of the competent bodies of the Energy Community, issued in accordance with the Energy Community Treaty.

#### Article 20

### **ERE Rules of Practice and Procedure**

ERE shall approve the rules of practice governing its proceedings pertaining to natural gas, including treatment of confidential information.

#### Article 21

### **Reporting**

1. ERE, within 31 March each year, shall prepare and submit at the Parliament an annual report on the situation of natural gas sector and ERE activity in the previous year. After submission and approval by the Parliament, this report is submitted to the Regulatory Board of the Energy Community and the Energy Community Secretariat and published on the official website of ERE.

2. This report includes an assessment of the level of transparency and competition in the market and an analysis of ERE activities and the fulfilment of its tasks, justifying the steps taken and the results achieved in connection with each of the powers and responsibilities under this law and legislation in force.

## **SECTION II**

### **LICENSING IN NATURAL GAS SECTOR**

#### Article 22

### **Licenses and licensing procedures**

1. Any legal person who carries out an activity in the natural gas sector, according to paragraph 2 of this Article has to obtain the relevant license issued by ERE in accordance with the provisions of this law.

2. ERE shall issue licenses for carrying out of the following activities:

a) natural gas transmission;

b) natural gas distribution;

c) natural gas supply;

ç) natural gas trading;

d) operation of natural gas storage facilities;

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- dh) operation of LNG plants;
- e) operation of natural gas market operator;
- ë) operation of small size LNG plants;
- f) operation of small size CNG plants.

3. It is unlawful carrying out one of the activities in the natural gas sector set forth in paragraph 2 of this article, without the license approved by ERE.

4. Local government authorities may undertake activities set forth in paragraph 2 of this article when a license is issued to them by the ERE, in accordance with this law.

5. For the operation of a direct line no license is required to be issued by the ERE.

## Article 23

### Licensing conditions

1. ERE determines the conditions that shall be met to obtain a license, taking into account, inter alia:

- a) validity of the license, which, for the activities of transmission, distribution, storage and LNG facilities shall not exceed 30 years and for other activities shall not exceed 10 years with the right of renewal;
- b) the locations and areas in which shall be performed the licensed natural gas activities;
- c) the operational safety and reliability of facilities, equipment or network, in accordance with the technical rules set out in Article 10 of this Law;
- ç) requirements for the nature of primary sources of energy;
- d) requirements related to national security, the protection of life, property and health of citizens and public order;
- dh) financial requirements;
- d) environmental protection;
- ë) promotion of energy efficiency in the natural gas sector;
- e) public service obligations, as provided in this law;
- f) promotion of a competitive natural gas market;
- gj) if the applicant is organized in accordance with the principle of separation of activities and structure, defined in this law;
- g) elements of economic efficiency of the activity to be performed, national network gas trade development and interaction between component national systems with those of the region

2. ERE shall grant a license for the transmission of natural gas only to one legal person, for a certain territory. An exception is made only in cases when in a given territory is necessary to extend and carry out the activities of gas transmission infrastructure with strategic and national importance, as defined by the Council of Ministers. The granting of the license is based on the criteria of efficiency and economic balance to the system operator and by ensuring that the operations of the licensee be done in accordance with the rights and responsibilities set forth in Section I of Chapter IV of this law.

3. ERE gives license to distribute only one person for a particular service area. An exception is made only in the territory where it is necessary to extend and carry out other activities and distribution infrastructure with strategic and national importance, as defined by the Council of Ministers. The granting of the license is based on the criteria of efficiency and economic balance to the system operator and ensure that the operations of the licensee be done in accordance with the rights and responsibilities set forth in Section II, Chapter IV of this law.

4. The Minister, through an instruction, designates areas of transmission and distribution, based on technical and economic criteria, and taking the opinion of ERE.

5. In determining the areas of transmission and distribution, the minister takes into account elements of the economic efficiency of the activity to be performed, develop and market the gas network in the country, and the interaction between component systems with those of the country and region.

## Article 24

### Licensing procedures

1. ERE approves the regulation on procedures and deadlines for issuance, modification, transfer or revocation of licenses, payment of license applications and information to be submitted in an application for any license.

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2. ERE may grant conditional license, when judging that any such failure is not essential and the licensee undertakes to perform within a certain period of time defined in the decision, but no more than 12 months.

#### Article i 25

### **Publication of applications for license**

1. ERE shall publish, within 14 days from the date of the application for obtaining a license, the notice of the application made in accordance with the procedure laid down in the regulation on licensing procedures.
2. In deciding, ERE should consider and evaluate observations or objections reasonably based, introduced by public institutions or other interested parties, in connection with the license application, justifying the decision their approval or not.

#### Article 26

### **Refusal of a license**

1. ERE refuses to grant a license if:
  - a) the applicant does not meet any of the conditions stipulated in Article 23 of this Law;
  - b) the applicant is in the process of bankruptcy or liquidation, as provided for in the legislation;
  - c) the applicant has been revoked or removed license, and the period for which the applicant has been restricted for reapplication has not elapsed yes, such period is defined in the relevant decision of the ERE to revoke the license
2. The decision of ERE justified reasons for refusing the license.

#### Article 27

### **License revocation**

1. ERE revokes a license when the licensee:
  - a) no longer meets the material conditions of the license granted under this law;
  - b) violates provisions to protect the environment while carrying out its activities;
  - c) endangers the lives, health and property of citizens;
  - ç) does not pay the regulatory fees imposed by the ERE, as defined by Article 14 of this Law;
  - d) becomes financially unable or requires declaration of bankruptcy;
  - dh) presents itself an application for licence withdrawal;
  - e) has ceased to perform certain functions under license.
2. In cases of license revocation, in accordance letters "a", "b", "c", " ç " and "d" of paragraph 1 of this Article, ERE:
  - a) notify the licensee that has started the procedures to revoke the license. The notice must clearly express the reasons for license revocation;
  - b) respect the right of the licensee to respond in writing within 30 days of receiving notification of the initiation of licence withdrawal proceedings;
  - c) when it is in the public interest, may give the licensee 30 days after its written response, to comply with license conditions and to avoid cause for its withdrawal.
3. In cases where ERE decides to revoke the license of a licensee that operates the transmission, distribution system, and operation of LNG or storage system operation, towards which is set the public service obligation, so that assets owned by the licensee, to continue to be used for security of supply of natural gas to customers, ERE, based on the relevant rules of procedure of license revocation, shall impose one of the interim measures, as defined below:
  - a) takes a decision to place under limited administration for a certain period of time, the company which has been stripped of the license, in order to ensure exercise of the activity and operation of its assets, until the measures according to paragraph 8 of this article will be taken;
  - b) appoints another company to perform the activity of the company, which has been stripped of the license, which must meet the relevant licensing conditions;
  - c) take a decision on the proposal of the minister responsible for energy, to appoint a temporary administrator of the company, which has been stripped of the license, in order to ensure exercise of the activity and operation of its assets until the measures, under paragraph 8 of this article will be taken.

4. In the cases provided for in paragraph 3 of this Article, the ERE determines the conditions and obligations that must be implemented by the company, which has been stripped of license, during the implementation of the interim measures.
5. The Council of Ministers, on the proposal of the minister responsible for energy, approves the procedure and criteria for the appointment of an Administrator who will be responsible for interim management of the company, according to the letter "c" of paragraph 3 of this article.
6. While the license is transferred to another company or be restored to the same company, will apply the temporary measures, as set out in paragraph 3 of this Article, for a period not longer than 12 months from the date of license revocation, the application of which is monitored by ERE.
7. The rules, procedures and criteria for implementing the requirements under paragraphs 1, 2 and 3 of this Article shall be determined by the ERE in the relevant rules of procedures of revoking the license.
8. When ERE revoke the license of the transmission, distribution, LNG operation or operation of deposits, the cases referred to in letters "a", "b" and "c" of paragraph 3 of this Article, the Council of Ministers within 12 months from the date of withdrawal of the license, perform the procedure of expropriation on the basis of a reasonable compensation the licensee's assets, based on the legislation in force.

## Article 28

### **Modifying the terms of a license**

1. ERE may modify the license, on its own initiative, based on a final court decision, in case of changes in the conditions for which the license was granted, or with the request of the licensee. ERE considers the anticipated effects that the modifications initiated or proposed shall entail to the licensee's obligations in accordance with this law and the conditions of his license.
2. Prior the approval of a license's modification, ERE publishes the proposed modifications considering possible objections or complaints submitted by interested parties related with this process.

## Article 29

### **Transfer of the license or assets**

1. Transfer of the license or the licensee's assets, which serve for conducting licensed activities, are performed with the prior approval of ERE, based on regulations adopted by it. ERE's approval is not required in cases of transfer of assets with a minimum value or assets that are not closely related to the licensed activity, in accordance with the regulation set out in paragraph 2 of this article
2. ERE approves the regulation on procedures for transferring the assets by means of sale, lease, mortgage, lien or any other disposal of equipment or fixed assets of the licensee, used for performing transmission, distribution, and operation of LNG or operation of deposits, including cases in which the transfer of assets with a minimum value is excluded from the approval procedure.

## Article 30

### **Keeping the licensees accounts**

1. Natural gas undertakings, whatever their system of ownership or legal form and organization, shall draw up, submit to audit and publish their annual accounts under the terms and conditions stipulated in the applicable laws of Albania and in compliance with international accounting standards.
2. Natural gas undertakings which are not be legally obliged to publish their annual accounts shall keep a copy of these at the disposal of the public in their head office.
3. Any licensee shall keep separate accounts for each of the licensed activities which exercises, as well as any other activity not related to the natural gas sector, in order to avoid cross subsidization and breach of competition. These accounts can be presented consolidated, unless the activities carried out are related to the distribution or transmission of natural gas.
4. All natural gas undertakings shall keep separate accounts, for other gas activities, which might be consolidated, by keeping separated also the accounts which are not related with the activities foreseen by this law.
5. Internal financial accounts of gas undertakings shall include the balance sheet and accounts of the loss of profit for each activity. Revenue from ownership of the transmission and distribution network will be specified in the

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accounts.

6. The audit referred to in paragraph 1 of this article shall, in particular, verify that the obligation to avoid discrimination and cross-subsidies referred to in paragraph 3 of this article.

7. Undertakings shall specify their internal accounting rules in accordance with the legislation in force.

8. The annual accounts shall indicate in notes any transaction conducted with related undertakings.

#### Article 31

##### **Right of access to accounts**

1. ERE shall, insofar as necessary to carry out its functions, have right of access to the accounts of natural gas undertakings as set out in article 30 of this law.

2. While executing its right referred to in paragraph 1 of this article, ERE shall preserve the confidentiality of commercially sensitive information. Such information may be disclosed for the competent authorities only in cases provided by the applicable laws.

### **SECTION III**

#### **TARIFFS OF NATURAL GAS SECTOR**

#### Article 32

##### **Activities with regulated tariffs**

1. ERE approves the methodology and sets tariffs for access to transmission and distribution network, connection charges with the transmission or distribution network, tariffs for access to storage and LNG facilities and supply tariffs for final customers that are supplied under the public service obligation.

2. The prices of the wholesale commercialization of gas among suppliers and retail sale between suppliers and customers, are freely set based on offer and demand.

3. In case ERE, assesses that the storage facility, balancing services or ancillary services are operating in a sufficiently competitive market, it may choose to allow market-based pricing.

4. This article shall be implemented without prejudice to the allowed application of negotiated prices under the terms and conditions stipulated in this law.

#### Article 33

##### **Tariff setting**

1. Tariffs and tariff methodologies shall be non-discriminatory, transparent, take into account the need for system integrity and reflect efficiently incurred costs whilst including appropriate return on investments.

2. Tariffs shall facilitate efficient gas trade and competition, while at the same time avoiding cross-subsidies among system users and providing incentives for investment.

3. Tariffs shall not restrict market liquidity or distort cross borders trade of different transmission systems. The network charge shall not be calculated on the basis of contract paths.

4. ERE shall approve tariffs that recover efficiently incurred costs related to regulated activities, ensuring a reasonable rate of return for the capital invested in regulated activities, and that stimulate the development of transmission, storage and distribution capacities.

5. The TSO and the DSO shall be granted appropriate incentive, over both the short and long term, to increase efficiencies, foster market integration and security of supply, and support the related research activities.

6. Tariffs shall be set separately for every entry point into or exit point out of the transmission system, based on the cost-allocation mechanism and rate setting methodology regarding entry points and exit points adopted by the ERE.

7. Cases where differences in tariff structures or balancing mechanisms would hamper crossboarding trade, transmission system operators shall be obliged, in close cooperation with the competent authorities, to actively pursue convergence of tariff structures and charging principles, including in relation to balancing.

8. Natural gas undertakings shall publish their tariffs at least 15 days before they become effective in accordance with the ERE regulations and dispositions of Article 17 of this law.

#### Article 34

##### **Balancing rules and tariffs**

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1. Balancing rules shall be designed in a fair, non-discriminatory and transparent manner and shall be based on objective criteria. Balancing rules shall reflect genuine system needs taking into account the resources available to the TSO. Balancing rules shall be marketbased.

2. Imbalance charges shall be cost-reflective while providing appropriate balancing incentives to balance input and off-take of gas, and shall avoid cross-subsidies between network users or entry barriers to new network users;

3. The TSO shall publish information on the balancing status of network users that is necessary to enable network users to take timely corrective actions. The level of information provided shall reflect the level of information available to the TSO. No charge shall apply for the provision of information under this paragraph.

4. The TSO shall publish all terms and conditions, including rules and tariffs, for the provision of balancing services.

## CHAPTER IV

### NATURAL GAS SECTOR ACTIVITIES

#### SECTION I

#### TRANSMISSION OF NATURAL GAS

##### Article 35

##### **Transmission System Operator (TSO)**

1. The activity of transmission of natural gas is an activity of public interest and it shall be carried out by the TSO, which shall be established as legal persons, licensed by ERE in accordance with this law, for exercising their activity in a certain territory.

2. The TSO shall be a specialised and independent natural gas undertaking incorporated, organized and structured under the laws of Albania, which is not part of vertical integrated undertaking

3. The TSO, shall carry out its duties independently from any other natural gas activities.

4. Independence of the TSO shall be implemented and further on ensured through unbundling of the TSO under the terms and conditions of article 3 of this law.

5. The TSO shall undertake its activities subject to the license for the transmission of natural gas, issued by the ERE under the terms and conditions laid down in this law and applicable by-laws. License for the transmission of natural gas may be issued only to a duly certified TSO, as required under article 37 of this law.

6. License for the transmission of natural gas issued before this law came into force and allowing the natural gas undertaking to carry out the duties and fulfil the tasks related to the transmission of natural gas shall be deemed as a temporary license authorising respective activities before the TSO but in any case no longer than until 1 June 2016.

##### **Article 36**

##### **Unbundling of the TSO**

1. The natural gas undertaking which owns the transmission system shall act as the TSO. The TSO shall acquire the license for the transmission of natural gas, as referred to in paragraph 5 of article 35 of this law.

2. To ensure the independence of the TSO the same person or persons shall not be entitled in the same time to:

a) directly or indirectly to exercise control over a licensed undertaking performing any of the functions of production or supply of natural gas and electricity, and to exercise control over decision making or exercise any right over the TSO or over the transmission system;

b) directly or indirectly to exercise control on decision making over the TSO or over the transmission system, and to exercise control on decision making or exercise any right over a licensee performing any of the functions of production or supply of natural gas and electricity;

c) to appoint members of the supervisory board, the administrative board or bodies legally representing the undertaking, of the TSO or the transmission system, and directly or indirectly to exercise control on decision making or exercise any right over a licensee performing any of the functions of production or supply of natural gas and electricity.

ç) to be a member of the supervisory board, the administrative board or bodies legally representing the licensee, to the licensees, performing any of the functions of production or supply and the TSO or the transmission system.

3. The restrictions stipulated in “a”, “b” and “c”, of point 2, of this law, shall be applicable in particular:

a) the power to exercise voting rights;

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b) the power to appoint members of the supervisory board, the administrative board or bodies legally representing the licensee;

c) the holding of a majority share.

3. The obligation set out in paragraph 2 of this article shall be deemed to be fulfilled in a situation where two or more undertakings which own transmission systems have created a joint venture which acts as one TSO in two or more countries. No other undertaking may be part of the joint venture, unless it has been designated as an independent TSO, and certified under the terms and conditions stipulated by the applicable legislation.

4. Where the person or persons referred to in paragraph 2 of this article is a public body controlled by the state, then the two separate public bodies that exercise control over the TSO or over the transmission system on the one hand, and over an licensee, that performs any of the functions of production or supply of natural gas and electricity on the other, shall be deemed not to be the same person or persons.

5. The TSO which was part of a vertically integrated undertaking, in accordance of this law shall take the measures not to disclose or not to transfer commercially sensitive information in other units of the previous vertical integrated undertaking, which perform any of the supply and production activity of natural gas and electricity.

#### Article 37

### **TSO certification**

1. Before an undertaking is licensed in the operation activity of a TSO, it shall be certified according to the certification procedure laid down in this article.

2. An undertaking, after implementation of all requirements for the unbundling of the TSO under Article 36 of this law, shall notify the ERE in written and shall submit all respective documents, data and information evidencing and justifying due compliance with the law. ERE shall define the requirements for application on the certification of the TSO, including the necessary documents that proves the fulfilment of obligations, defined in this law.

3. ERE shall adopt a decision on the certification of the TSO within a period of four (4) months from the date of application and proper submission of all required documents, data and information by the OST. After expiry of that period, the certification shall be deemed to be granted based on the tacit decision of the ERE.

4. ERE shall notify the Energy Community Secretariat on the starting of procedures of the certification of OST, and within two (2) months of receiving an opinion of the Energy Community Secretariat, by taking in consideration its recommendations.

5. When the final decision of the ERE diverges from the opinion of the Energy Community Secretariat, the ERE shall provide and publish together with such decision the reasoning underlying its diverging decision, and shall inform the Energy Community Secretariat accordingly.

6. At any time during the certification procedure, the ERE and the Energy Community Secretariat may request from the TSO and/or natural gas undertakings performing any functions of production or supply any information relevant for fulfilment of their tasks under this article. The ERE shall preserve the confidentiality of commercially sensitive information.

7. The final decision of ERE on the certification of TSO and related materials, as provided in this article, published on the website of ERE.

8. Upon a separate request of the TSO or by initiative of the ERE, the certification procedure may be followed by issuance of a new license for the transmission of natural gas or modification of existing license, as it may be required.

## Article 38

### **Certification of the exempted TSO**

1. In cases where a new infrastructure for the transmission of natural gas is exempted from the applicability of article 36, of this law, concerning the ownership unbundling of the TSO, as foreseen under article 78 of this law, the TSO in charge for the operation of such new infrastructure shall be designated and certified in line with the requirements stipulated in the respective decision on exemption, including the indicated model for the unbundling of the TSO.

2. The ERE, without prejudice to article 37 of this law, shall adopt the terms and conditions for certification of the TSO in cases referred to in paragraph 1 of this article, including requirements to be followed in implementing the unbundling of the TSO. Such terms and conditions shall be prepared and adopted on a case-by-case basis, considering the respective decision on exemption for the new infrastructure.

## Article 39

### **Monitoring of the unbundling of the TSO**

1. ERE shall monitor the continuing compliance of the designated TSO with the requirements for its independence and unbundling stipulated in this law. The ERE shall open a reassessment and certification procedure to ensure such compliance in the following cases:

- a) upon notification by the TSO pursuant to paragraph 2 of this article;
- b) on its own initiative where it has knowledge that a planned change in rights or influence over the TSO may lead to an infringement of respective requirements for independence and unbundling of the TSO, or in cases that such an infringement may have occurred;
- c) upon a reasoned request from the Energy Community Secretariat.

2. The TSO shall notify to the ERE any planned transaction which may require a reassessment of its compliance with the requirements for independence and unbundling of the TSO.

3. The ERE shall adopt its decision on compliance of the TSO with the requirements for its independence and unbundling not later than in four (4) months from the date of respective notification by the TSO or receipt of a request from the Energy Community Secretariat, or the beginning of an inspection on its own initiative.

4. In case the ERE considers the requirements for independence and/or unbundling of the TSO have been infringed, takes a decision that TSO shall eliminate such infringements during the reasonable time period determined by the ERE and shall therefore submit any documents, data and information evidencing and justifying such elimination.

5. At the end of the defined period for eliminating infringement, ERE takes a final decision on reassessment for the fulfilment of the obligation, in accordance with paragraph 4 of this 29 Article. Until the ERE adopts its final decision, the TSO shall be authorised, on a temporary basis, to perform its respective activities in accordance with this law.

6. The reopened certification procedure shall be followed under article 37 or, as the case may be, article 38 of this law.

7. Failure by the TSO on the unbundling obligation, as defined in Article 36 of this law, ERE shall take measures on revocation of its license, and/or administrative penalties referred to in article 106 of this Law. In case of license revocation for the transmission of natural gas, ERE shall ensure that the transmission of natural gas is performed in a continuous and uninterrupted manner under the terms and conditions stipulated in the licensing rules adopted by the ERE.

## Article 40

### **Certification in relation to third countries**

1. Where certification is requested by the TSO which is controlled by a person or persons from a third country or third countries, the ERE shall notify the Energy Community Secretariat. The ERE shall also notify the Energy Community Secretariat without delay on a undertaking of the TSO by a person or persons from a third country or third countries acquiring control of the TSO or the transmission system.

2. For the purposes of paragraph 1 of this article, the TSO shall notify to the ERE any circumstances that would result in a person or persons from a third country or third countries acquiring control of the TSO or the transmission system.

3. The certification procedure in relation to third countries shall be implemented following the requirements of Article 37 of this law taking into account specific requirements stipulated in this article.

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4. The ERE shall refuse the certification of the TSO in case:

- a) the TSO does not comply with the requirements for its independence and unbundling established by this law; and
- b) granting certification will put at risk the security of energy supply of Albania and the Energy Community. When considering such question the ERE shall take into account:

i) the rights and obligations of the Energy Community with respect to that third country, arising under the international law, including any agreements concluded with one or more third countries to which the Energy Community is a party and which addresses the issues of security of energy supply;

ii) the rights and obligations of Albania with respect to that third country arising under agreements concluded with it, insofar as they are in compliance with the Energy Community Treaty;

iii) the rights and obligations resulting from association or trade agreements between Albania and the European Union;

iv) other specific facts and circumstances of the case and the third country concerned.

5. The Ministry and/or other competent authorities of Albania shall provide, upon request of the ERE, their opinion on the questions referred to in paragraph 4 of this article.

6. The relevant decision of the ERE on certification of the TSO or the refusal to grant certification shall be notified to the Energy Community Secretariat without delay, together with all the relevant information with respect to such decision.

7. The final decision on certification of the TSO in relation to third countries shall be adopted and published following the procedure stipulated in Article 37 of this law.

8. While taking utmost account of the opinion of the Energy Community Secretariat, the ERE shall have the right to refuse certification where granting certification puts at risk security of supply in Albania or in any other Energy Community Party, or threatens the public security interests of Albania.

#### Article 41

#### **TSO responsibilities**

1. The main responsibilities of the Transmission System Operator:

The TSO shall construct, own, operate, maintain and develop under economic conditions the secure, reliable and efficient natural gas transmission system to secure market, as well as to ensure sufficient capacity to meet reasonable demand for transmission of natural gas in a defined territory and adequate means to meet service obligations. The TSO, while

carrying out its duties and fulfilling its tasks, shall pay due regard to:

- a) shall construct, own, operate, maintain and develop under economic conditions the secure, reliable and efficient natural gas transmission system to secure market, as well as to ensure sufficient capacity to meet reasonable demand for transmission of natural gas in a defined territory and adequate means to meet service obligations.

The TSO, while carrying out its duties, shall respect the requests for job protection to the transmission system, as well as environment protection according to the effective legislation;

- b) shall ensure the service of natural gas transmission in accordance with license and the ERE rules.
- c) shall ensure the balancing of the system in accordance with objective principles, transparent and non-discriminative in accordance with balance regulations. Prices for the provision of the balancing-related services shall be established pursuant to the methodology adopted by the ERE;

ç) shall ensure the balancing of the system in accordance with objective principles, transparent and non-discriminative in accordance with balance regulations. Prices for the provision of the balancing-related services shall be established pursuant to the methodology adopted by the ERE.

- d) shall conduct the transmission system services in transparent, non-discriminative, based on the principle of the lower cost and lower environmental impact.

dh) shall build sufficient cross-border capacity to integrate the natural gas transmission system of natural gas in Albania with such system of other EU Member States and Energy Community Contracting Parties accommodating all economically reasonable and technically feasible demands for capacity and taking into account security of gas supply.

- e) provides to any other transmission system operators, Distribution System Operator, storage system operator, LNG operator and neighbouring TSO or other licensed natural gas undertaking with sufficient information to ensure interoperability of the system, and to ensure that the transport and storage of natural gas may take place in a manner

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compatible with the secure and efficient operation of the interconnected system.

ė) provides system users with detailed information in a meaningful, quantifiably clear and easily accessible way regarding services offered, conditions for service, and technical information necessary for network users to gain effective network access, including, but not limited to technical, contracted and available capacities, consistent with confidential information exemptions as approved by the ERE. ě) shall procure the energy it uses for the carrying out of its functions according to transparent, non-discriminatory and market based procedures.

f) shall keep at the disposal of the national authorities, all information referred to in article 48 of this law for a period of 5 (five) years. This information should be at the disposal of the Energy Community Secretariat as well.

g) shall take reasonable steps to allow capacity rights to be freely tradable and to facilitate such trade in a transparent and non-discriminatory manner. The TSO shall also develop harmonised transport contracts and procedures on the primary market to facilitate secondary trade of capacity and recognise the transfer of primary capacity rights where notified by system users. These harmonised contracts and procedures shall be notified to the ERE.

gj) preserve the confidentiality of any sensitive commercial information

2. TSO operates in accordance with minimum technical standards adopted by the ministry, on maintenance, development, technical inspection system of natural gas transmission and interconnection capacity

## Article 42

### Third Party Access to the Transmission System

1. The TSO shall provide an unrestricted access to the transmission system in line with the terms and conditions laid down in the Transmission Grid Code. In this regard, the TSO shall:

a) ensure that it offers its services on a non-discriminatory bases to all network users;

b) provide both firm and interruptible third-party access services. The price of interruptible capacity shall reflect the probability of interruption;

c) offer to network users both long and short-term services.

2. In regard to subparagraph a) of paragraph 1 of this article, where the TSO offers the same service to different customers, it shall do so under equivalent contractual terms and conditions, either using harmonised transport contracts and/or pursuant to the Transmission Grid Code approved by the ERE.

3. The TSO shall publish the terms and conditions approved by ERE, including rules and tariffs, for the provision of third party access to the transmission system. These terms and conditions shall apply in non-discriminative manner for all the customers.

4. The third-party access services may be granted subject to appropriate guarantees from network users with respect to the creditworthiness of such users. Such guarantees shall not constitute undue market-entry barriers and shall be non-discriminatory, transparent and proportionate.

5. Transport contracts signed with non-standard start dates or with a shorter duration than a standard annual transport contract shall not result in arbitrarily higher or lower tariffs that do not reflect the market value of the service, in accordance with the principles laid down in paragraph 1 of article 33 of this law.

6. The conclusion of long-term contracts shall be allowed in so far as they comply with the competition rules stipulated in the applicable laws, as required by the Energy Community law.

7. The TSO shall, if necessary for the purpose of carrying out its functions shall conclude agreements and/or other collaborating conditions for having access to the network of other transmission system operators of neighbouring countries.

## Article 43

### Refusal of access rights

1. The TSO may refuse access to the transmission system on the basis of lack of capacity or where the access to the system would prevent them from carrying out the public service obligations, as regulated by this law, or on the basis of serious economic and financial difficulties with take-or-pay contracts that have been effective before the request for access to the transmission system.

2. Each network user whose application for access to the transmission system was refused shall be provided with such reasons in a written form, as to be prepared and submitted by the TSO without any undue delay after receiving the application for access.

3. The TSO, if refusing access to the transmission system on the basis of lack of capacity or a lack of connection, shall make the necessary enhancements as far as it is economic to do so or when a potential customer is willing to pay for such enhancements.

4. The TSO shall not be entitled to refuse the connection of a new storage facility, LNG regasification facility or industrial customer on the grounds of possible future limitations to available network capacities or additional costs linked with necessary capacity increase.

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The TSO shall ensure sufficient entry and exit capacity for the new connections.

5. A network user whose access to the transmission system has been refused or is unsatisfied with conditions of its access to the system may file a complaint with ERE, following the terms and conditions laid down in article 98 of this law.

#### Article 44

### Transmission Grid Code

1. The Transmission Grid Code shall be proposed by the TSO after consultation with natural gas sector participants, and shall be approved by the ERE. The TSO shall publish the Transmission Grid Code on its website and in a place easily accessible from the public

2. The Transmission Grid Code shall contain, as a minimum, the following provisions:

- a) the terms, conditions, technical details and minimum technical specifications for the access of users to the transmission system, including but without limitation thirdparty access services provided by the TSO, technical information necessary for network users to gain effective access to the transmission system, the definition of all relevant points, the information to be published at all relevant requirement for transparency and the time schedule according to which that information shall be published;
- b) method of planning the development of the transmission system;
- c) conditions for connection of storage and LNG facilities, and of industrial customers to the transmission system;
- ç) the management of gas input points in the transmission system;
- d) the measurement process and determination of quality specifications and conditions for acceptance of gas delivery;
- dh) the allocation procedure of measured quantities of gas to users at the system input and off-take points;
- e) the planning and maintenance of the transmission system and the relevant obligations of the TSO and system users;
- ë) the procedure for the preparation of the transmission system development plan and for the monitoring and control of its implementation, and all details related to transmission system development;
- f) principles of capacity-allocation mechanisms and congestion-management procedures concerning the transmission system, and the terms and conditions for their application in the event of contractual congestion;
- g) requirements for metering systems and methods of metering the volumes of natural gas delivered through the transmission system duly following the specific rules for metering systems and metering adopted by the ERE;
- gj) the criteria on which consumers' supply may be interrupted in order of priority for reasons of security of supply;
- h) the procedure for the extrajudicial settlement of disputes between users and the TSO;
- i) the rules governing the TSO's transactions with system users and especially the accounts that must be kept by the TSO for that purpose; and
- j) all other issues related to the regulation of management, operation, maintenance and development of the transport network system.

#### Article 45

### Principles of capacity-allocation mechanisms and congestion-management procedures concerning the TSO

1. The maximum capacity at all relevant points, including entry and exit points, shall be made available to market participants, taking into account system integrity and efficient network operation.

2. The TSO shall implement and publish non-discriminatory and transparent capacityallocation mechanisms, which shall:

- a) provide appropriate economic signals for the efficient and maximum use of technical capacity,
- b) facilitate investment in new infrastructure
- c) facilitate cross-border exchanges in natural gas;
- ç) be compatible with the market mechanisms including spot markets and trading hubs, while being flexible and capable of adapting to evolving market circumstances;
- d) be compatible with the network access systems of the Energy Community Parties.

2. The TSO shall implement and publish non-discriminatory and transparent congestion management procedures which facilitate cross-border exchanges in natural gas on a nondiscriminatory basis and which shall be based on the following principles:

- a) in the event of contractual congestion, the TSO shall offer unused capacity on the primary market at least on a ~~day-ahead and interruptible basis;~~

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b) network users who wish to re-sell or sublet their unused contracted capacity on the secondary market, if shall be entitled to do so, following notification of the TSO to be provided by such network users under the terms and conditions stipulated in the Transmission Grid Code.

3. In the event that physical congestion exists, non-discriminatory, transparent capacity allocation mechanisms shall be applied by the TSO or, as appropriate, by the ERE.

4. The TSO shall regularly assess market demand for capacity related with new investments. When planning new investments, the TSO shall assess market demand and take into account security of supply.

#### Article 46

### Network development and investment decisions

1. TSO, within 12 months from entering into force of this law, shall submit to ERE a ten-year transmission network development plan based on supply and demand, which is being reviewed by 31<sup>st</sup> October of the previous year, after having consulted all the relevant parties and taking into account existing and planned forecast of supply and demand. The transmission network development plan shall contain efficient measures in order to guarantee the adequacy of the network and security of supply.

2. The network development plan shall:

a) take into account the information for the natural gas market participants, as well as information on the main transmission infrastructure that needs to be built or upgraded over the next 10 (ten) years;

b) contain all the investments already approved and identify new investments which have to be executed in the next three years;

c) provide for a time frame for all investment projects.

3. When elaborating the ten-year network development plan, the TSO shall make reasonable assumptions about the production, supply, consumption and exchanges of natural gas with other countries, taking into account investment plans for surrounding networks as well as investment plan for the storage facilities and LNG re-gasification.

4. The ERE shall consult all actual or potential system users regarding the ten-year network development plan in an open and transparent manner. The ERE shall publish the result of the consultation process, in particular possible needs for investments.

5. The ERE shall examine whether the ten-year network development plan, if it finds that, not all investment needs are identified during the consultation process, may require the TSO to amend and/or change its ten-year network development plan.

6. The ERE shall approve, monitor and evaluate the implementation of the ten-year network development plan.

7. When ERE identifies that the TSO, has not performed for three years a forecasted investment in accordance with the 10 year plan, and considers that such investment is necessary and may be financed without hindering the normal operation of the network, shall request from TSO the following measures:

a) execute the investments in question;

b) organise a tender procedure open to any investors showing interest for the investments in question;

c) oblige the TSO to accept a capital increase to finance the necessary investments and allow independent investors to participate in the capital.

4. Where the ERE has made use of its powers under the subparagraph b) of paragraph 7 of this article, it may oblige the TSO to agree to one or more of the following options:

a) financing by any third party;

b) construction by any third party;

c) building the new concerned assets itself within a reasonable deadline;

ç) operating the new concerned assets itself.

5. The TSO shall provide the investors with all information needed to realise the investments, and shall generally make its best efforts to facilitate the implementation of the investment project. The relevant financial arrangements shall be subject to approval by the ERE.

6. Where the ERE has made use of its powers under paragraphs 7 and 8 of this article, shall take the opinion of the ministry responsible for energy.

7. ERE take measures that investment costs are covered by the relevant fees and unrealized investments to be taken into account during the next year tariff approval.

8. ERE drafts and approves a regulation on the procedures for the submission and approval of investment plans

## Article 47

### Compliance programme and compliance officer

1. The TSO shall establish a compliance programme setting out measures taken to ensure that discriminatory conduct is excluded, it shall be subject to approval by the ERE, and ensure a method for monitoring compliance with that programme. The compliance programme shall set out the specific obligations of employees of the TSO to meet those objectives. Compliance with the programme shall be independently monitored by a compliance officer.

2. The compliance officer shall be appointed by the supervisory board or, if such body is not formed, by the collective management body of the TSO, subject to the prior approval by the ERE. The ERE may refuse the approval of the compliance officer only for reasons of lack of independence or professional capacity. The compliance officer may be a natural or legal person and shall be independent in his or her work and actions.

3. Approval of the criteria and tasks of the compliance officer position and the approval of his office (length of his stay in the office) will be decided by ERE. These criteria should ensure the independence of the compliance officer and shall further provide all necessary resources to fulfill the duties.

4. While exercising his/her duties the compliance officer shall not perform any other professional duty and he/she is not allowed to either directly or indirectly perform any other function or participate in business or be a business partner with any part of the vertically integrated undertaking or with the majority of its shareholders.

5. The compliance officer shall be in charge of:

a) monitoring the implementation of the compliance programme;

b) elaborating an annual report, setting out the measures taken in order to implement the compliance programme and submitting it to the ERE;

c) reporting to the responsible bodies of the TSO and issuing recommendations on the compliance programme and its implementation;

ç. notifying the ERE on any substantial breaches with regard to the implementation of the compliance programme; and

d) reporting to the ERE on any commercial and financial relations between the vertically integrated undertaking and the TSO.

6. The compliance officer shall submit the proposed decisions on the investment plan or on individual investments in the network, after approval by ERE.

7. The compliance officer shall report to the ERE regularly, either verbally or in writing, and shall have the right to report regularly, either orally or in writing, to the responsible bodies of the TSO.

8. The compliance officer may attend all meetings of the managing staff and corporate bodies of the TSO, including the general assembly, supervisory and management bodies, which have the obligation to inform the compliance officer of scheduled meetings and to provide him with all necessary materials. The compliance officer shall attend all meetings that address the following matters:

a) conditions for network access and transmission network use, in particular regarding prices for network use, services related to network access and transmission network use, transmission capacity allocation and congestion management, transparency, balancing and secondary markets,

b) projects undertaken in order to manage the natural gas system and to maintain and develop the transmission network, including investments in cross-border interconnection lines and the connections,

c) energy purchases or sales necessary for the operation of the natural gas system and the transmission system, including ancillary services and balancing service

9. The compliance officer shall monitor the compliance of the TSO with the provisions regulating confidentiality of the TSO.

10. The compliance officer shall have access to all relevant data and to the offices of the TSO, without prior notification, and to all the information necessary for the fulfilment of his or her tasks.

11. The supervisory body or, if such body has not been established, the collegial management body of TSO may dismiss the compliance officer, with prior approval by ERE. It shall dismiss the compliance officer for reasons of lack of independence or professional capacity upon request of the ERE.

## Article 48

### Transparency requirements

1. The TSO shall make public detailed information regarding the services it offers and the relevant conditions applied, together with the technical information necessary for network users to gain effective network access.

2. In order to ensure transparent, objective and non-discriminatory tariffs the TSO shall publish detailed information on tariff derivation, methodology and structure.

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3. For the services provided, the TSO shall make public information on technical, contracted and available capacities on a numerical basis for all relevant points including entry and exit points on a brief, easily accessible by the parties.

4. The relevant points of a transmission system on which the information is to be made public shall be approved by ERE after consultation with network users.

5. The TSO shall always disclose the information required by this law and other applicable legal acts easily accessible by the parties.

6. The TSO shall make public details relevant to demand and offer information, based on forecasts and realised flows in and out of the system. The ERE shall ensure the fulfilment of such obligation.

7. The TSO shall make public measures taken as well as costs incurred and revenue generated to balance the system.

8. The market participants shall provide the TSO with the data referred to in this article under the terms and conditions stipulated in the regulation on provision of information adopted by the ERE.

#### Article 49

### **Regional and international cooperation by the TSO**

1. The TSO in coordination with the ERE shall particularly promote and facilitate the cooperation of transmission system operators at a regional level, including cross-border issues, with the aim of creating a competitive regional market in natural gas, foster the consistency of their legal, regulatory and technical frameworks and facilitate integration of the isolated systems forming gas islands that persist in the Energy Community, in line with the undertaking international commitments of Albania.

2. The TSO shall cooperate with the Energy Community Regulatory Board and, with regulatory authorities and transmission system operators of other EU and/or member states and Energy Community Parties within the framework determined by the Energy Community Treat, this law and other applicable legal acts.

3. The TSO, with prior approval of the ERE, may participate in the work of one or more integrated system(s) at the level of one or more regions covering two or more EU member states and Energy Community Parties for allocation of transmission capacity and for checking the operational security.

4. TSO shall promote operational arrangements in order to ensure the optimum network management in the regional level and in the Energy Community and shall promote the development of natural gas exchanges, the coordinated allocation of cross-border capacity through non-discriminatory market-based solutions, paying due attention to the specific merits of implicit auctions for short-term allocations, and the integration of balancing and reserve mechanisms.

## **SECTION II DISTRIBUTION OF NATURAL GAS**

#### Article 50

### **Distribution System Operator (DSO)**

1. The activity of the distribution of natural gas it shall be carried out by a DSO, established as legal persons, licensed by ERE, within a certain territory with the rights and responsibilities established in this law.

2. The DSO activity shall be independent from other activities not relating to distribution, in relation to organization and decision making.

3. The DSO shall operate the distribution network in accordance with the principles embodied in this law and the principles of objectivity, transparency and non-discrimination.

4. No other companies shall have jurisdiction or authority in the area of gas distribution or own gas distribution assets except as authorized by ERE.

#### Article 51

### **Unbundling of the Distribution System Operator**

1. In addition to the requirements under paragraph 2 of article 50 of this law, where the Distribution System Operator is part of a vertically integrated undertaking, it shall be independent in terms of its organisation and decision-making from the other activities not related to distribution.

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2. Those persons responsible for the management of the Distribution System Operator shall not participate in company structures of the integrated natural gas undertaking responsible, directly or indirectly, for the day-to-day operation of the production, transmission and supply of natural gas.

3. Appropriate measures shall be taken to ensure that the professional interests of persons responsible for the management of the Distribution System Operator are taken into account in a manner that ensures that they are capable of acting independently.

4. If the Distribution System Operator is part of an integrated natural gas undertaking, with the purpose of being independent in organization and decision making aspect, from the other activities not related to the distribution of natural gas, it shall have effective decision-making rights independent from the integrated natural gas undertaking, with respect to assets necessary to operate, maintain and develop the distribution network. In order to fulfil those tasks, the Distribution System Operator shall have at its disposal the necessary resources including human, technical, financial and physical resources. The parent company in accordance with the legislation in force, has full rights related to management and economic supervision for issues that are under the competence of the parent company. The parent company may not to give instructions regarding day-to-day operations, nor with respect to individual decisions concerning the construction or upgrading of distribution lines, that do not exceed the terms of the approved financial plan, or any equivalent instrument defined in the Articles of Association of the company or legislation in force. The Distribution System Operator shall establish a compliance programme, which sets out measures taken to ensure that discriminatory conduct is excluded, and ensure that observance of it is adequately monitored. The compliance programme shall set out the specific obligations of employees to meet that objective. An annual report, setting out the measures taken, shall be submitted by the person or body responsible for monitoring the compliance programme, the compliance officer of the Distribution System Operator, to ERE and shall be published. The compliance officer of the Distribution System Operator shall be fully independent and shall have access to all the necessary information of the Distribution System Operator and any affiliated undertaking to fulfil his task.

5. Activities of the Distribution System Operator shall be monitored by ERE so that the Distribution System Operator cannot take advantage of its vertical integration, as the case may be, to distort competition. In particular, vertically integrated Distribution System Operator shall not, in its communication and branding, create confusion in respect of the separate identity of the supply branch of the vertically integrated undertaking.

6. Requirements set forth in paragraph 2 of article 50 of this law shall not create an obligation to separate the ownership of assets of the distribution system from the vertically integrated undertaking.

#### Article 52

### **Exemption from the unbundling of the Distribution System Operator**

In cases where the Distribution System Operator provides service to less than 10,000 customers, it is not subject to the fulfilment of the obligations set out in paragraph 2 of Article 50 and Article 51 of this Law. In this case, at the request of the Distribution System Operator, after receiving the opinion of ERE confirming fulfilment of the conditions of the exemption, the responsible minister proposes to the Council of Minister the exemption of the Distribution System Operator.

#### Article 53

### **Tasks of the Distribution System Operator**

1. The Distribution System Operator shall be responsible for ensuring the long-term ability of the natural gas distribution system in its service area, and for constructing, operating, maintaining and developing a secure, reliable and efficient system, with due regard for the environment and energy efficiency.

2. The Distribution System Operator shall ensure a reliable and efficient service of natural gas distribution in accordance with license conditions and the ERE rules.

3. The Distribution System Operator shall connect every customer in the distribution network based on objective and transparent criteria, provided that the distribution system will have sufficient capacity and all other technical and commercial requirements are met.

4. The Distribution System Operator shall ensure a non-discriminative access to all distribution system users, in compliance with the legislation in force, refraining from discrimination among system users or classes of system users, particularly in favour of its related undertakings;

5. The Distribution System Operator shall provide system users with easily accessible information from the parties for the services offered, conditions for service, and technical information necessary for network users to gain effective network access, including, but not limited to technical for an effective access to the network, consistent with confidential information exemptions as approved by the ERE.

6. The Distribution System Operator shall provide any other system operator sufficient information to ensure that

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the transport and storage of natural gas may take place in a manner compatible with the secure and efficient operation of the interconnected system.

7. The Distribution System Operator shall publish the terms and conditions approved by the ERE, including rules and tariffs for providing distribution services.

8. Where the Distribution System Operator is responsible for balancing the distribution system, rules adopted by it for that purpose shall be objective, transparent and nondiscriminatory, including rules for the charging of system users for energy imbalance. Terms and conditions, including rules and tariffs, for the provision of such services by the Distribution System Operator shall be established pursuant to a methodology adopted by the ERE in a non-discriminatory and cost-reflective way and shall be published.

9. The Distribution System Operator shall preserve the confidentiality of any sensitive commercial information, related to the users, obtained in the course of carrying out its business, and shall prevent information which may be commercially advantageous from the moment made public. The Distribution System Operator shall not, in the context of sales or purchases of natural gas by responsible undertakings, abuse commercially information obtained from the third parties in the context of providing or negotiating access to the system.

10. The Distribution System Operator is responsible to conduct technical check-ups within the facilities that DSO distributes natural gas, so that it ensures that they operate in compliance with the technical rules in power.

#### Article 54

### **Third Party Access to Distribution System**

1. The Distribution System Operator shall provide an unrestricted access to the distribution system, within the limits of the distribution capacity and technical regulation, in line with the terms and conditions laid down in the Distribution Grid Code approved by ERE.

2. Where the Distribution System Operator offers the same service to different customers, it shall do so under equivalent contractual terms and conditions, either using harmonised contracts and/or pursuant to the Distribution Grid Code.

3. The Distribution System Operator shall publish the terms and conditions approved by the ERE, including rules, guarantees and tariffs, for the provision of third parties access to the distribution system. These terms and conditions shall be objectively applied to all eligible customers and without discrimination between network users.

4. Third-party access services will be granted subject to appropriate guarantees from network users with respect to the creditworthiness of such users. Such guarantees shall not constitute undue market-entry barriers and shall be non-discriminatory, transparent and proportionate.

5. The Distribution System Operator may refuse access to the distribution system under the terms and conditions stipulated in article 43 of this law.

#### Article 55

### **Distribution Grid Code**

1. The Distribution Grid Code shall be proposed by the Distribution System Operator, after consultation with other natural gas sector participants and social partners, and shall be approved by the ERE. The Distribution System Operator shall publish the Distribution Grid Code in an easy accessible venue and on its website.

2. The Distribution Grid Code shall include any and all provisions related to the regulation of the management, operation, maintenance and development of distribution systems, like application for distribution grid access, prepayment for the network access, if any, metering, billing how to switch a supplier in case the final customer is an eligible one and connected to the distribution network, how to quit the contract, force majeure, as well as requirements for metering systems and methods of metering the volumes of natural gas delivered through the distribution system duly following the specific rules for metering systems and metering adopted by the ERE, and other relevant provisions.

#### Article 56

### **Development of the distribution network and investment plan**

1. The Distribution System Operator shall establish a development and investment plan with a view to ensure the security, reliability, regularity and quality of the supply in the distribution system. The Distribution System Operator

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shall take account of environmental interests and of energy efficiency when adopting development and investment plans.

2. The distribution network development and investment plan shall be established by the Distribution System Operator for 10 (ten) years and shall be adapted each year for the next 10 (ten) years. The development and investment plan shall, contain indications relating to the short, medium and the long term. The short term shall cover a period of 3 (three) years, the medium term a period of 6 (six) years and the long term a period of 10 (ten) years.

3. The Distribution System Operator shall submit its proposal for the development and investment plans to the ERE for approval. The ERE may consult the concerned authorities, other State institutions, natural gas undertakings and the effective or potential users of the network, and in such case publishes the result of such a consultation process. The ERE shall notably examine if the investments which are envisaged are sufficient to cover all the relevant needs which are put forward during the consultation process.

4. The Distribution System Operator shall adopt development and investment plan within 30 (thirty) days from the date of the ERE's approval. In case the ERE considers that the development and investment plan does not enable the Distribution System Operator to implement its legal obligations, it shall request from the Distribution System Operator that it remedies such a situation within a period of time that the ERE determines.

5. Once a year the Distribution System Operator shall, following the adoption of its development and investment plan, send extracts of the said plan to the TSO in order for it to develop and adopt the ten-year network development plan for transmission capacities.

### **SECTION III NATURAL GAS PRODUCTION**

#### Article 57

#### **Producers**

1. Any person engaged in the activity of natural gas production shall be subject of the law no. 7746, dated 28.07.1993 "On hydrocarbons (Exploration and Production) ", as amended. These entities are subject to the provision of this law in case they carry out an activity in the natural gas sector other than production.

2. Producers that have signed a hydrocarbon agreement according to provisions of the law no. 7746, dated 28.07.1993 "On hydrocarbons (Exploration and Production)", as amended, may request to be connected to the transmission or distribution network of natural gas complying with technical terms and standards set forth in the natural gas transmission or distribution grid code. Expenses for these connections shall be borne by producers.

3. Producers may construct direct lines to meet their own needs or to supply one or more eligible customers.

#### Article 58

#### **Access to upstream pipeline networks**

1. Natural gas undertakings and eligible customers, are able to obtain access to upstream pipeline networks, including facilities supplying technical services incidental to such access, except for the parts of such networks and facilities which are used for local production operations at the site of a field where the gas is produced.

2. General terms and conditions for the access to upstream pipeline networks are established by the law no. 7746, dated 28.07.1993 "On hydrocarbons (Exploration and Production) ", as amended. The Ministry approves the general terms and conditions for the access to upstream pipeline activities. While approving these terms and conditions the Ministry keeps in consideration the following elements:

- a) lack of capacities;
- b) discord of technical peculiarities if the system;
- c) if the access in the system may put at risk the oil and natural gas production;
- ç) if the access in the system may put at risk the rights of other system users.

These conditions, after the approval from the Minister, shall be informed to Energy Community Secretariat.

3. The access to upstream networks is permitted based upon transparency and nondiscriminatory principles and is a deregulated activity.

### **SECTION IV STORAGE OF NATURAL GAS**

#### Article 59

#### **Storage system operator**

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1. A natural gas storage facilities operation shall be designated as a storage system operator which are legal person provided with license by the ERE according to provisions of this law.
2. Considering the efficiency and economic balance, one or more storage system operators may be licensed by ERE.

#### Article 60

##### **Unbundling of the storage system operator**

1. A Storage System Operator which is part of a vertically integrated undertaking shall be independent at least in terms of its legal form, organisation and decision making from other activities not relating to transmission, distribution and storage.

2. In order to ensure independence of the storage system operator referred to in paragraph 1 of this article, the following minimum criteria shall apply:

a) persons responsible for the management of the storage system operator shall not participate in company structures of the integrated natural gas undertaking responsible, directly or indirectly, for the day-to-day operation of the production and supply of natural gas;

b) appropriate measures shall be taken to ensure that the professional interests of persons responsible for the management of the storage system operator are taken into account in a manner that ensures that they are capable of acting independently;

c) the storage system operator shall have effective decision-making rights independent from the integrated natural gas undertaking, with respect to assets necessary to operate, maintain or develop the storage facilities. This shall not preclude the existence of appropriate coordination mechanisms to ensure that the economic and management supervision rights of the parent company in respect of return on assets in the storage system operator are protected. In particular, this shall enable the parent company to approve the annual financial plan, or any equivalent instrument, of the storage system operator and to set global limits on the levels of its indebtedness. It shall not permit the parent company to give instructions regarding day-to-day operations, nor with respect to individual decisions concerning the construction or upgrading of storage facilities, that do not exceed the terms of the approved financial plan, or any equivalent instrument;

ç) the storage system operator shall establish a compliance programme, which sets out measures taken to ensure that discriminatory conduct is excluded, and ensure that observance of it is adequately monitored. The compliance programme shall set out the specific obligations of employees to meet that objective. An annual report, setting out the measures taken, shall be submitted by the person or body responsible for monitoring the compliance programme to the ERE and shall be published.

3. This article shall apply only to storage facilities that are technically and/or economically necessary for providing efficient access to the system for the supply of customers pursuant to article 63 of this law.

#### Article 61

##### **Tasks of the storage system operator**

The Storage System Operator shall:

a) operate, monitor, maintain and develop under economic conditions secure, reliable and efficient storage facilities to secure an open market, with due regard to the environment, ensure adequate means to meet service obligations;

b) refrain from discriminating between system users or classes of system users, particularly in favour of its related undertakings;

c) provide any other system operator sufficient information to ensure that the transport and storage of natural gas may take place in a manner compatible with the secure and efficient operation of the interconnected system;

ç) provide system users with the information they need for efficient access to the storage facilities;

d) keep at the disposal of the relevant authorities, all the information referred to in article 58 of this law for a period of 5 (five) years; This information shall be also available for the Energy Community Secretariat,

e) take reasonable steps to allow capacity rights to be freely tradable and to facilitate such trade in a transparent and non-discriminatory manner; and

ë) develop harmonised storage facility contracts and procedures on the primary market to facilitate secondary trade of capacity and recognise the transfer of primary capacity rights where notified by system users. These

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harmonised contracts and procedures shall be notified to the ERE.

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## Article 62

### Storage activity

1. The Storage System Operator shall be in possession of natural gas storage facilities under a hydrocarbon agreement signed according to provisions of the law no.7746, dated 28.07.1993 «On hydrocarbons (Exploration and Production)», as amended, or under any other legal form.
2. The storage system operator shall manage its storage facilities in coordinated and integrated way in order to guarantee their optimization and the security of the natural gas system.

## Article 63

### Organisation of the access to storage facilities and *linepack*

1. For the organisation of access to storage facilities and *linepack* when technically and/or economically necessary for providing efficient access to the system for the supply of customers, as well as for the organisation of access to ancillary services, the procedure of negotiated and/or regulated access shall be applied.
2. The ERE shall define and publish criteria according to which the access procedure applicable to storage facilities and *linepack* may be determined. Those procedures shall be applied in accordance with objective, transparent and non-discriminatory criteria.
3. The storage system operator shall publicly announce which storage facilities or which parts of storage facilities are offered for access. TSO shall also publicly announce which *linepack* is offered under the different access procedures.
4. The provisions of above paragraphs of this article shall not apply to ancillary services and temporary storage that are related to LNG facilities and are necessary for the re-gasification process and subsequent delivery to the transmission system.
5. In the case of negotiated access, the ERE shall take the necessary measures for natural gas undertakings and eligible customers either inside or outside the territory covered by the interconnected system to be able to negotiate access to storage facilities and *linepack*, when technically and/or economically necessary for providing efficient access to the system, as well as for the organisation of access to other ancillary services. The parties shall be obliged to negotiate access to storage, *linepack* and other ancillary services in good faith.
6. Contracts for access to storage, *linepack* and other ancillary services shall be negotiated with the relevant storage system operator or natural gas undertakings. The storage system operator and natural gas undertakings shall publish and continuously update, when necessary, but at least on annual basis, their main commercial conditions for the use of storage, *linepack* and other ancillary services. When improving their commercial conditions referred to hereinabove, the storage system operator and natural gas undertakings shall consult system users.
7. In the case of regulated access, the ERE shall take the necessary measures to give natural gas undertakings and eligible customers either inside or outside the territory covered by the interconnected system a right to access to storage, *linepack* and other ancillary services, on the basis of published tariffs and/or other terms and obligations for use of that storage and *linepack*, when technically and/or economically necessary for providing efficient access to the system, as well as for the organisation of access to other ancillary services. The ERE shall consult system users when developing those tariffs or the methodologies for those tariffs. The right of access for eligible customers may be given by enabling them to enter into supply contracts with competing natural gas undertakings other than the owner and/or operator of the system or a related undertaking.

## Article 64

### Third-party access services concerning storage facilities

1. The Storage System Operator shall:
  - a) offer services on a non-discriminatory basis to all network users that accommodate market demand. In particular, where the storage system operator offers the same service to different customers, it shall do so under equivalent contractual terms and conditions;
  - b) offer services that are compatible with the use of the interconnected gas transport systems and facilitate access through cooperation with the TSO;
  - c) make relevant information public, in particular data on the use and availability of services, in a time-frame compatible with the storage facility users' reasonable commercial needs, subject to the monitoring of such publication by the ERE;
  - ç) provide both firm and interruptible third-party access services. The price of interruptible capacity shall reflect the probability of interruption;
- d) offer to storage facility users both long and short-term services;

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dh) offer to storage facility users both bundled and unbundled services of storage space, injectability and deliverability.

2. Storage facility contracts shall not result in arbitrarily higher tariffs in cases in which they are signed:

- a) beyond a natural gas one year contract with no determined start dates
- b) with a shorter duration than a standard LNG and storage facility contract on an annual basis.

3. Where appropriate, third-party access services may be granted subject to appropriate guarantees from network users with respect to the creditworthiness of such users. Such guarantees are approved by the ERE and shall not constitute undue market-entry barriers and shall be non-discriminatory, transparent and proportionate.

4. The storage system operator may refuse access to the storage facilities under the terms and conditions stipulated in article 43 of this law.

#### Article 65

##### **Principles of capacity-allocation mechanisms and congestion-management procedures concerning storage facilities**

1. The maximum storage facility capacity shall be made available to market participants, taking into account system integrity and operation.

2. The storage system operator shall implement and publish non-discriminatory and transparent capacity-allocation mechanisms which shall:

a) provide appropriate economic signals for the efficient and maximum use of capacity and facilitate investment in new infrastructure;

b) be compatible with the market mechanism including spot markets and trading hubs, while being flexible and capable of adapting to evolving market circumstances;

c) be compatible with the connected network access systems.

3. Storage facility contracts shall include measures to prevent capacity-hoarding, used for future resale with abusive pricing, by taking into account the following principles, which shall apply in cases of contractual congestion:

a) the Storage System Operator must offer unused storage capacity on the primary market without delay;

b) storage facility users who wish to re-sell their contracted capacity on the secondary market must be entitled to do so.

4. For the purposes of subparagraph a) of paragraph 3 of this article, the respective offer by the storage system operator shall be presented at least on a day-ahead and interruptible basis.

#### Article 66

##### **Transparency requirements concerning storage facilities**

1. The storage system operator shall make public the full information regarding the services it offers and the relevant conditions applied, for storage facility users to gain effective access to the storage facilities.

2. Storage System Operator shall make public information on contracted and available storage facility capacities which is provided in clear and comprehensible for stakeholders.

3. The storage system operator shall always disclose the information required by this law and other applicable legal acts in easily accessible way by the parties.

4. The storage system operator shall make public the amount of gas in each storage facility, or group of storage facilities, inflows and outflows, and the available storage facility capacities, including for those facilities exempted from third-party access. That information shall also be communicated to the TSO, which shall make it public on an aggregated level per system or subsystem defined by the relevant points. The information shall be updated periodically.

5. In cases in which a Storage System Operator is the only user of a storage facility, the storage system user may submit to the ERE a reasoned request for confidential treatment of the data referred to in paragraph 4 of this article. Where the ERE comes to the conclusion that such a request is justified, it may allow the storage system operator not to make public the data referred to in paragraph 4 of this article, for a duration of up to 1 (one) year from the request approval.

6. Paragraph 5 of this article shall apply without prejudice to the obligations of publication by the TSO, referred to in paragraph 4, unless the aggregated data are identical to the individual storage system data for which the ERE has approved non-publication.

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7. In order to ensure transparent, objective and non-discriminatory tariffs and facilitate efficient utilisation of the infrastructures, the storage system operator shall make public sufficiently detailed information on tariff derivation, the methodologies and the structure of tariffs for infrastructure under regulated third-party access

#### Article 67

### Usage rules for the gas storage system

1. The usage rules for the gas storage system shall prescribe the development, management and usage of the gas storage system.

2. The usage rules for the gas storage system shall particularly prescribe the following:

- a) the gas storage system description,
- b) the development, construction and maintenance of the gas storage system,
- c) the management and supervision of the gas storage system,
- ç) contractual relations and general conditions for using the gas storage system,
- d) reservations and usage of capacities in the gas storage system,
- dh) trading with the gas storage system capacities,
- e) rights and obligations of the gas storage system operator and user,
- è) measurement rules and distribution rules,
- f) publication of data and the exchange information,
- g) connection to other parts of the gas system,
- gj) compensation of damages

3. In the process of adopting the usage rules for the gas storage system, the gas storage system operator shall ensure adequate participation of all interested parties, and shall conduct a public debate lasting no less than 15 days. The usage rules for the gas storage system shall be applied by the gas storage system operator upon approval of the ERE, and shall be posted on the websites of the ERE and the gas storage system operator.

## SECTION V OPERATION OF LNG FACILITIES

#### Article 68

### LNG System Operator

1. The LNG system operation shall be performed by the operators of LNG, which are established as legal persons, licensed by ERE, in accordance with the provisions of this law.

2. Considering the efficiency and economic balance, one or more LNG system operators may be designated.

#### Article 69

### Duties of LNG System Operator

The LNG system operator shall:

- a) operate, maintain and develop a secure, reliable and efficient LNG facility to secure an open market, with due regard to the environment protection, ensure adequate means to meet service obligations;
- b) have the approval for use of the existing LNG system facilities, in accordance with Article 11 of this law;
- c) connect the LNG facility to the transmission system pursuant to the technical rules for the transmission system and the rules for the use of the LNG facility;
- ç) establish and secure a system of measurement of inflows and outflows and the gas quality parameters;
- d) offload and re-gasify LNG on the basis of signed contracts;
- dh) secure objective, equal and comprehensible conditions of access to the LNG facility pursuant to this law and the general conditions of the natural gas supply, approved by ERE, and article 16 and 75 of this law;
- e) refrain from discriminating between system users or classes of system users, particularly in favour of its related undertakings;
- è) elaborate a five-year LNG facility development plan, publish it and update it annually, and deliver it to the ERE for approval;
- f) provide any other system operator sufficient information to ensure that the transport and storage of natural gas may take place in a manner compatible with the secure and efficient operation of interconnected systems;
- g) provide regulated information to gas market participants, sufficiently in advance, on the volume and the date of

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- the cessation of the LNG facility operation and the expected reduction of the LNG facility capacities;
- g) secure the protection of confidential information of commercial nature obtained in the course of carrying out his business;
  - h) keep at the disposal, including the ERE, the Competition Authority and any other responsible authority, all information pursuant to article 73 of this law for a period of 5 (five) years. Such information shall also be provided to the Energy Community Secretariat
  - i) take reasonable steps to allow capacity rights to be freely tradable and to facilitate such trade in a transparent and non-discriminatory manner;
  - j) encourages the conclusion of contracts and harmonised proceedings LNG facility on the primary market to facilitate secondary trade of capacity and recognise the transfer of primary capacity rights where notified by system users. These harmonised contracts and procedures shall be notified to the ERE.

#### Article 70

### **Rights of LNG System Operator**

The LNG system operator shall have the right to:

- a) refuse access to the LNG facility under the conditions referred to in articles 43 and 79 hereof;
- b) purchase gas for its own consumption and compensation of gas losses in the LNG facility;
- c) limit or temporarily cease the contracted offloading and re-gasification of LNG:
  - i) in case of a direct threat to human lives, health or property with a view of eliminating such threats;
  - ii) in case of a crisis situation and with a view of preventing a crisis situation;
  - iii) in case of planned maintenance or reconstruction of the LNG facility;
  - iv) in cases when a user does not respect his/her contractual obligations.

#### Article 71

### **Third-party access services concerning LNG facilities**

1. The LNG system operator shall:
  - a) offer services on a non-discriminatory basis to all network users that accommodate market demand. In particular, where the LNG system operator offers the same service to different customers, it shall do so under equivalent contractual terms and conditions;
  - b) offer services that are compatible with the use of the interconnected gas transport systems and facilitate access through cooperation with the TSO; and
  - c) make relevant information public, in particular data on the use and availability of services, in a time-frame compatible with the LNG facility users' reasonable commercial needs, subject to the monitoring of such publication by the ERE
2. LNG facility contracts shall not result in arbitrarily higher tariffs in cases in which they are signed:
  - a) outside a natural gas year standard with undetermined commencement date;
  - b) with a shorter duration than a standard LNG facility contract on an annual basis.
3. Where appropriate, third-party access services may be granted subject to appropriate guarantees from network users with respect to the creditworthiness of such users. Such guarantees shall not constitute undue market-entry barriers and shall be non-discriminatory, transparent and proportionate.
4. The LNG system operator may refuse access to the LNG facilities under the terms and conditions stipulated in article 43 of this law.

#### Article 72

### **Principles of capacity-allocation mechanisms and congestion-management procedures concerning LNG facilities**

1. The maximum LNG facility capacity shall be made available to market participants, taking into account system integrity and effective operation.
2. The LNG system operator shall implement and publish non-discriminatory and transparent capacity-allocation mechanisms which shall:
  - a) provide appropriate economic signals for the efficient and maximum use of capacity and facilitate investment in new infrastructure;
  - b) be compatible with the market mechanism including spot markets and trading hubs, while being flexible and capable of adapting to evolving market circumstances;

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c) be compatible with the connected network access systems.

3. LNG facility contracts shall include measures to prevent capacity-hoarding, by taking into account the following principles, which shall apply in cases of contractual congestion:

a) the LNG system operator must offer unused LNG facility capacity on the primary market without delay;

b) LNG facility users who wish to re-sell their contracted capacity on the secondary market must be entitled to do so.

#### Article 73

### **Transparency requirements concerning LNG facilities**

1. The LNG system operator shall make public detailed information regarding the services it offers and the relevant conditions applied, together with the technical information necessary for LNG facility users to gain effective access to the LNG facilities.

2. For the services provided, the LNG system operator shall make public information on contracted and available LNG facility capacities on a numerical basis on a regular and rolling basis and in a user-friendly standardised manner easily accessible by the parties.

3. The LNG system operator shall always disclose the information required by this law and other applicable legal acts in a easily accessible way by the parties.

4. The LNG system operator shall make public the amount of gas in each LNG facility, or group of LNG facilities if that corresponds to the way in which the access is offered to system users, inflows and outflows, and the available LNG facility capacities, including for those facilities exempted from third-party access. That information shall also be communicated to the TSO, which shall make it public on an aggregated level per system or subsystem defined by the relevant points. The information shall be updated at least daily.

5. In order to ensure transparent, objective and non-discriminatory tariffs and facilitate efficient utilisation of the infrastructures, the LNG system operator shall make public detailed information on tariff derivation, the methodologies and the structure of tariffs for infrastructure under regulated third-party access.

#### Article 74

### **Usage rules for the LNG terminal**

1. The usage rules for the LNG terminal shall prescribe the development, management and usage of the LNG terminal.

2. The usage rules for the LNG terminal shall particularly prescribe the following:

a) LNG terminal description,

b) the development, construction and maintenance of the LNG terminal,

c) the management and supervision of the LNG terminal,

ç) contractual relations and general conditions for using the LNG terminal,

d) reservations and usage of capacities in the LNG terminal,

dh) rights and obligations of the LNG terminal operator and user,

e) measurement rules and distribution rules,

ë) publication of data and the exchange of information,

f) loss compensation of Terminal.

3. In the process of adopting the usage rules for the LNG terminal, the LNG terminal operator shall ensure adequate participation of all interested parties, and shall conduct a public debate lasting no less than 15 days. The usage rules for the LNG terminal shall be adopted by the LNG terminal operator upon approval of the ERE, and shall be posted on the websites of ERE and the LNG terminal operator.

## **SECTION VI NATURAL GAS SUPPLY**

#### Article 75

### **Supply activities**

1. Every person engaged in the activity of natural gas supply shall get a license by the ERE.

2. Supply of natural gas to final customers shall be provided at non-regulated market prices subject to a contract negotiated between the supplier and the customer.

3. As an exception from paragraph 2 of this article, household customers and small enterprises shall have a right to be supplied with natural gas by the supplier in charge to provide public service under the terms and conditions stipulated in Articles 92 and 93 of this law.

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4. All final customers, including those referred to in paragraph 3 of this article, can be supplied by any qualified supplier licensed by the ERE and chosen by them.
5. All suppliers, including those under public service obligation imposed in their licenses, shall purchase natural gas for supplying final customers on the bilateral or organised natural gas market, or through imports at non-regulated prices.
6. Suppliers on which a public service obligation in their license for ensuring a public service to be provided at regulated prices and under regulated conditions may also sell natural gas under market conditions and non-regulated prices and without territorial limitation, provided that they have separate accounts for both activities.
7. The ERE shall adopt the General Conditions for the Supply of Natural Gas, which shall be mandatory applied by all suppliers operating in Albania. The general conditions shall set objective, transparent and non-discriminatory requirements to be equally applied to all natural gas undertakings depending on their activities in the natural gas market. The general conditions of supply shall be publicly available on the ERE's website as well as on the websites of the suppliers.

## Article 76

### Supplier Switching Rules

1. ERE shall ensure the implementation of an efficient procedure which enables a final customer to switch to another supplier as simply as possible, within a period of less than 3 (three) weeks after having notified its former supplier of its intention to switch to another supplier.

2. The ERE shall adopt the supplier switching rules, which shall lay down the conditions and the procedure for a change of supplier. These rules shall contain in particular:

- a) the procedure for supplier switching which shall include;
  - i) the procedure for supplier switching in conditions of supply as a public service obligation and last resort supply;
  - ii) the procedure for supplier switching in the event of changing ownership of a building; and
  - iii) the procedure for changing contractual relations in the event of a temporary transfer of a contract for the supply of natural gas to final customers and a contract on final customer network use to a third party.
- b) the conditions that have to be fulfilled by a new supplier, particularly those related to balancing;
- c) the duties of a supplier whose contract for the natural gas supply of final customers is undergoing a termination procedure;
- ç) the duties of system operator in charge to which facilities of the final customer are connected;
- d) the rights of the new supplier in relation to network access and use of the transmission or distribution networks for the purpose of supplying a new final customer; and
- dh) the settlement of previous financial obligations of final customers

3. A switch of the supplier in accordance with the supplier switching rules shall be free of charge for the final customer. Supplier switching shall be carried out upon a request submitted by the final customer, unless it is a case of supply as a public service obligation or last resort supply pursuant to the terms and conditions stipulated in this Law.

4. A supplier whose contract for the supply of natural gas to final customers is undergoing the termination procedure, the supplier cannot set additional conditions for the termination of the contract on the supply of natural gas, including unsettled liabilities and shall supply the final customer until the supplier switching procedure is completed. The former supplier may set additional conditions only if the final customer has not settled liabilities, following a previous warning issued by the supplier due to unpaid liabilities, requesting that the due liabilities be settled or an agreement on the settlement of liabilities be reached within a certain period that cannot be shorter than 8 (eight) days starting from the date of receipt of the warning.

5. ERE shall monitor the implementation of the supplier switching rules.

6. Disputes related to this procedure arising from complaints submitted by final customers or suppliers shall be resolved by the ERE. In any case, any interested party has the right to administrative proceedings before the competent court for resolving the issue.

7. The disputes shall not suspend the supplier switching procedure and implementation of a new contract for the supply of natural gas to final customers.

## Article 77

### Record keeping

1. Natural gas undertakings engaged in the supply or trade in natural gas shall keep at the disposal of ERE, ministry,, the Competition Authority and other responsible authorities, for the fulfilment of their tasks, for at least 5

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five years, the relevant data relating to all transactions in gas supply contracts and gas derivatives with wholesale customers and the TSO, as well as with storage and LNG system operators. These records shall keep at the disposal of the Energy Community Secretariat.

2. The data shall include details on the characteristics of the relevant transactions such as duration, delivery and settlement rules, the quantity, the dates and times of execution and the transaction prices and means of identifying the wholesale customer concerned, as well as specified details of all unsettled gas supply contracts and gas derivatives.

3. The ERE may decide to make available to market participants elements of this information provided that commercially sensitive information is not released.

## **SECTION VII OTHER INFRASTRUCTURES OF NATURAL GAS**

### Article 78

#### **Exemptions for New Infrastructure**

1. Major new gas infrastructures, such as interconnectors between countries, LNG and storage facilities, may, upon their request, be exempted by ERE approval from the provisions of paragraph 1 of article 16, paragraph 5 of article 33, subparagraphs dh) and e) of paragraph 1 of article 17, and articles 36, 42, 63, 64 and 71 of this law, under the following conditions:

- a) the investment must enhance competition in gas supply and enhance security of supply;
- b) the level of risk attached to the investment is such that the investment would not take place unless an exemption was granted;
- c) the infrastructure must be owned by a person which is separate at least in terms of its legal form from the system operators in whose systems that infrastructure will be built;
- ç) charges are levied on users of that infrastructure;
- d) the exemption is not detrimental to competition or the effective functioning of the internal gas market, or the efficient functioning of the regulated system to which the infrastructure is connected.

2. Paragraph 1 of this article shall apply also to significant increases of capacity in existing infrastructures and to modifications of such infrastructures which enable the development of new sources of gas supply.

3. The ERE may, on a case by case basis, decide on the exemption referred to in paragraphs 1 and 2 of this article subject to the criteria established in this article.

4. Where the infrastructure in question is located in the territory of more than one Energy Community contracting Party, or EU member, the Energy Community Regulatory Board may submit an advisory opinion to the ERE and the regulatory authority of another EU member state or Energy Community Contracting Party concerned, which may be used as a basis for their decision on exemption, within 2 (two) months from the date on which the request for exemption was received by the last of those regulatory authorities.

5. Where all the regulatory authorities concerned agree on the request for exemption within 6 (six) months of the date on which it was received by the last of the regulatory authorities, they shall inform depending on the situation, the Energy Community Regulatory Board of their decision.

6. The Energy Community Regulatory Board shall exercise the tasks conferred on the regulatory authorities of the EU member states and the Energy Community Contracting Parties concerned by the present article:

a) where all regulatory authorities concerned have not been able to reach an agreement within a period of 6 (six) months from the date on which the request for exemption was received by the last of those regulatory authorities;

b) upon a joint request from the regulatory authorities concerned.

7. All regulatory authorities concerned may, jointly, request that the period referred to in subparagraph a) of paragraph 6 of this article is extended by up to 3 (three) months.

8. Before taking a decision, the ERE will consult the relevant regulatory authorities and the applicants.

9. The exemption may cover all or parts of, respectively, the new infrastructure, or of the existing infrastructure with significantly increased capacity or modification of the existing infrastructure.

10. In deciding to grant an exemption, consideration shall be given, on a case by case basis, to the need to impose conditions regarding the duration of the exemption and nondiscriminatory access to the interconnector. When deciding on the conditions in this paragraph, account shall, in particular, be taken of the duration of contracts, additional capacity to be built or the modification of existing capacity, the time horizon of the project and national circumstances.

11. When granting an exemption, the ERE shall decide upon the rules and mechanisms for management and allocation of capacity. The rules shall require that all potential users of the infrastructure are invited to indicate their interest in contracting capacity before capacity allocation in the new infrastructure, including for

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own use, takes place. The ERE shall require congestion management rules to include the obligation to offer unused capacity on the market, and shall require users of the infrastructure to be entitled to trade their contracted capacities on the secondary market. In its assessment of the criteria referred to in subparagraphs a), b) and d) of paragraph 1 of this article, the ERE shall take into account the results of that capacity allocation procedure.

12. The exemption decision, including any conditions referred to in paragraph 11 of this article, shall be duly reasoned and published in the Official Journal. Without revealing commercially sensitive information, the decision shall contain:

- a) the detailed reasons on the basis of which the ERE granted or refused the exemption together with a reference to paragraph 1 of this article including the relevant provisions on which such decision is based, including the financial information justifying the need for the exemption;
- b) the analysis undertaken of the effect on competition and the effective functioning of the internal gas market resulting from the grant of the exemption;
- c) the reasons for the time period and the share of the total capacity of the gas infrastructure in question for which the exemption is granted;
- ç) in case the exemption relates to an interconnector, the result of the consultation with the countries or regulatory authorities concerned;
- d) the contribution of the infrastructure to the diversification of gas supply.

13. Notwithstanding paragraph 3 of this law, the ERE may apply to the Energy Community Regulatory Board to submit, for the purposes of the formal decision, its opinion on the request for an exemption. That opinion shall be published together with the decision.

14. The ERE shall transmit to the Energy Community Secretariat, and depending on the situation to the EU Commission, if a EU member state is involved without delay, a copy of every request for exemption as of its receipt. The decision shall be notified, without delay, by the ERE to the Energy Community Secretariat, together with all the relevant information with respect to the decision. That information may be submitted to the Energy Community Secretariat in aggregate form, enabling the Energy Community Secretariat to reach a wellfounded decision.

15. Within a period of 2 (two) months from the day following the receipt of a notification, the Energy Community Secretariat may take an opinion inviting the ERE to amend or withdraw the decision to grant an exemption. That two-month period may be extended by an additional period of 2 (two) months where further information is sought by the Energy Community Secretariat. That additional period shall begin on the day following the receipt of the complete information. The initial two-month period may also be extended with the consent of both the Energy Community Secretariat and the ERE.

16. Where the requested information, as stipulated in paragraph 15, is not provided within the period set out in the request, shall be considered that ERE is reviewing the decision for exception and the notification sent in accordance with article 14, shall be deemed to be withdrawn unless, ERE, before the expiry period mentioned in paragraph 15 has informed the Energy Community Secretariat through a duly reasoned statement, that it considers the notification to be complete.

17. The ERE shall take the utmost account of an opinion of the Energy Community Secretariat that recommends to amend or withdraw the exemption decision. When the final decision diverges from the Energy Community Secretariat's opinion, the ERE shall provide and publish, together with that decision, the reasoning underlying to such decision together with the opinion of Energy Community Secretariat.

18. The opinion of Energy Community Secretariat's on approval of an exemption decision shall lose its effect 2 (two) years from its adoption in the event that construction of the infrastructure has not yet started, and 5 (five) years from its adoption in the event that the infrastructure has not become operational unless the Energy Community Secretariat decides that any delay is due to major obstacles beyond control of the person to whom the exemption has been granted.

## Article 79

### **Derogations in Relation to Take or Pay Commitments**

1. If a natural gas undertaking encounters, or considers it would encounter, serious economic and financial difficulties because of its take-or-pay commitments accepted in one or more gas purchase contracts, the natural gas undertaking may apply to the ERE for a temporary derogation from the duty to provide access. Applications shall be presented on a case-by-case basis, either before or after refusal of access to the system, at the choice of the natural gas undertaking. Where a natural gas undertaking has refused access, the application shall be presented without delay. The application shall be accompanied by all relevant information on the nature and extent of the problem and on the efforts undertaken by the natural gas undertaking to solve the problem.

2. With respect to the situation described in paragraph 1 of this article, if alternative solutions are not reasonably available, the ERE may decide to grant a derogation. When deciding on derogation, the ERE shall take into account:

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- a) the objective of achieving a non-discriminatory, transparent competitive gas market;
- b) the need to fulfil public service obligations and to ensure security of supply;
- c) the position of the natural gas undertaking in the gas market and the actual state of competition in the market;
- ç) the economic and financial difficulties encountered by natural gas undertakings, the TSO or eligible customers;
- d) the dates of signature and terms of the contract or contracts in question, including the extent to which they allow deviation from their obligations;
- dh) the efforts made to find a solution to the problem;
- e) the extent of the negative effect, caused to the undertaking as the result of applying the take-or-pay commitments in question, effects which have been taken into consideration or as per the circumstances the undertaking could reasonably have foreseen, from the company that accepts the “take or pay”;
- ë) the level of connection of the system with other systems and the degree of interoperability of these systems; and
- f) the effects the granting of a derogation would have on the correct application of this law as regards the smooth functioning of the internal gas market.

3. ERE shall notify the Energy Community Secretariat without delay of its decision to grant a derogation, together with all the relevant information with respect to the derogation, enabling the Energy Community Secretariat to reach a well-founded opinion. Within two months of receipt of that notification, the Energy Community Secretariat shall issue an opinion, requesting, as the case may be, the ERE to amend or withdraw the decision to grant a derogation.

4. ERE should make the maximum efforts to take into consideration the opinion of the Energy Community Secretariat, recommending the modification or withdrawal from the decision of derogation. In case the final decision is essentially different from the opinion of the Energy Community Secretariat, ERE publishes argument of the decision taken, together with the opinion of the Energy Community Secretariat.

5. Natural gas undertakings which have not been granted a derogation as referred to in paragraph 1 of this article shall not refuse, or shall no longer refuse, access to the system because of take-or-pay commitments accepted in a gas purchase contract.

6. Any derogation granted by the ERE in accordance with this law shall be published and duly substantiated.

## **Article 80**

### **Combined operator**

1. The provisions of Articles 36 and 50 point 2, of this law, do not exclude the combined operation of transmission systems and distribution, LNG and storage facilities by a single operator, who must be independent from the legal, organizational and decision making standpoint from other activities not related to the operation of transmission and distribution systems, LNG and storage facilities. The combined transmission system operator must be certified in accordance with the provisions of this law.

2. A combined operator means that the same natural gas undertaking may be authorized to conduct the transmission, distribution, LNG and / or storage system of the operator, subject to its independence from any system operator as foreseen by this law, and to be independent from the companies that perform any of the functions related to production, supply or trading.

3. The combined system operator that establishes, a certain a part of the vertically integrated company, will arrange its activities as an independent legal entity, unbundled from the activities of gas production, gas trade and gas supply.

4. In accordance with paragraph 3 of this Article, the independence of the combined system operator shall be provided as it follows:

a) the persons responsible for the management of the combined system operator that form a part of a vertically integrated company will not participate in the management of gas production , gas trade and gas supply activities.

b) the persons responsible for the management of the combined system operator are professionally trained and act independently to fulfill the tasks and objectives of the company. Financial treatment of the persons responsible for management and those responsible for supervisory bodies of the combined system operator, which is controlled by the state, shall be approved by the Council of Ministers;

c) the operator will decide independently upon the necessary resources needed for the operation, management and development of the administered system. The operator should have all the necessary resources available to meet these obligations, including human, technical, financial and material resources. This does not change the right of the parent company, within the system of an integrated company to authorize annual financial plan for combined system operator and to set its debt limits. The parent company will not provide guidance to the combined system operator in connection with its daily operations, including instructions for individual decisions in the establishment or upgrading concerning parts of the system managed by the combined system operator whether this decision derives from the

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financial authorized annual plan.

5. ERE shall ensure that the combined system operator owns the technical and managerial skills to operate independently, and issue separate licenses for each of the activities of a combined operator under the terms and conditions stipulated in this Law and its statutory rules.

6. A combined system operator must keep separate accounts for each of its activities, in compliance with article 30 of this law.

7. The combined system operator should establish and implement its compliance program in compliance with article 47 of this Law.

8. ERE will monitor the activities of a combined operator that establishes a part of the vertically integrated company, so that he would not take advantage of its vertical integrity for the distortion of market competition.

## Article 81

### Direct line

1. If a natural gas undertaking and a customer plan to conclude a natural gas supply contract, but cannot gain access to the transmission or distribution system, they may construct a direct line subject to a prior approval by the Council of Minister following a prior submission from the Ministry in compliance with the criteria and procedures set out in article 11 of this law.

2. The Council of Ministers shall establish objective and non-discriminatory criteria for issuance of the authorisation for construction and operation of direct lines after obtaining the ERE's opinion as far as the undertaking inability to conclude a gas supply contract is concerned, in cases where there is a lack of access in the transmission or distribution system.

3. The possibility of supplying natural gas through a direct line as referred to in paragraph 1 of this article shall not affect the possibility of contracting natural gas on the basis of bilateral contracts or on the organised natural gas market of under the terms and conditions stipulated in this law.

4. The Council of Ministers may issue a prior authorisation to construct a direct line subject either to the prior refusal of transmission or distribution system access on the basis, as appropriate, of article 43 or 54 paragraph 5 of this law or to the opening of a dispute settlement procedure under article 98 of this law, when it is due to lack of access to transmission or distribution system.

5. The Council of Ministers shall be authorised to refuse to issue a prior authorisation to construct a direct line if the granting of such an authorisation would obstruct implementation of the provisions on the public service obligations, including the protection of final customers. Duly substantiated reasons shall be given in writing by the ERE for such refusal.

6. The natural gas undertaking whose right to get permit/ prior authorization is declined as far as the direct line construction is concerned, retain the right to appeal the decline in the administrative court acting in compliance with general terms provided by the Code of Administrative Procedures.

7. Direct lines construction and reconstruction will be completed in compliance with all procedures set out in the laws that regulate territorial planning and development.

8. The expenses incurred for the construction of a direct line, in compliance with the provisions 1 and 2 of this article, shall be covered by the natural gas undertaking, and shall be correctly reimbursed by the customer to be supplied by this line. In case that, the cost for the construction of the direct line will not be included in the methodology deployed for setting up tariffs of the system in which the direct line is connected.

## CHAPTER V NATURAL GAS MARKET

### Article 82

#### **Market opening and reciprocity**

1. The gas market is open, where all customers have the right to choose, freely their supplier.
2. A client has the right to be supplied by an operator that operates in the system of a Member State of the EU or of a contracting party of the Energy Community, provided they do not create imbalances in the system, as a result of supply.

### Article 83

#### **Organisation of trade in natural gas**

1. Trade in natural gas may be performed by a natural gas undertaking based on a license issued by the ERE under the terms and conditions stipulated by this law and the Licensing Rules adopted by the ERE.
2. Natural gas undertakings performing the supply of natural gas under the license has the right to also exercise the activity of natural gas undertaking, with the condition to keep separate accounts for each activity. After obtaining the supply license from the ERE, the company of natural gas, which will carry out the activity of trading in natural gas, should include the scope of activity in the register of National Registration Centre (NRC), depositing there a copy of the license issued by the ERE.
3. The ERE shall ensure, in accordance with the international commitments of Albania, that the procedure for issuing the license for performance of the trade in natural gas and the requirements set out in respective licenses do not discriminate against natural gas undertakings coming from any Energy Community Party.

### Article 84

#### **Natural gas market**

1. The natural gas market shall include the retail and wholesale natural gas market.
2. Transactions between final customers and their suppliers shall take place on the retail natural gas market.
3. The wholesale natural gas market shall include:
  - a) bilateral natural gas agreement, excluding the agreements related between the parties, in accordance with paragraph 2, of this law;
  - b) day-ahead natural gas market for the delivery of natural gas;
  - c) balancing natural gas market.
4. Purchase and sale on the wholesale natural gas market shall be contracted under bilateral agreements, as well as on organised natural gas markets, that are day-ahead natural gas markets for delivering the quantity of natural gas and balancing the natural gas market.
5. The TSO shall procure balancing services from the balancing service providers in the balancing market approved by the ERE.
6. The Balancing rules shall define the terms and conditions related to balancing, including rules for: balancing service providers, procurement of balancing services, determination of quantities and financial criteria to be settled with balance service providers.
7. TSO shall cooperate with other transmission system operators on facilitating balancing market at a regional level in order to ensure operational security and efficient functioning of balancing market based on the effective competition, non-discrimination and transparency.

### Article 85

#### **Organization of natural gas market**

1. The natural gas market operator is a legal person, licenced by ERE, responsible for the organisation of the natural gas market in accordance with the market rules, drafted by the natural gas market operator and approved by ERE.
2. The natural gas market operator shall be responsible for the organisation of physical trade in natural gas in Albania, as well as for its connecting with other organised natural gas markets.
3. The possibility of establishing the stock exchange of natural gas derivatives shall not be limited only to the natural gas market operator.
4. The natural gas market operator shall be a company that it is functional independent from the TSO.

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5. The natural gas market operator shall perform its duties respecting the principles of transparency, objectivity and non-discrimination, under the supervision of the ERE.

6. The applicable tariffs by the natural gas market operator for the organisation of the natural gas market shall be approved by ERE

7. The natural gas market operator shall keep a separate account for the transactions involving purchase and sale of natural gas.

#### Article 86

##### **Measures to promote market opening**

1. ERE, in cooperation with the Competition Authority, shall conduct inquiry of the natural gas market functioning at least every 2 (two) years starting after entry into force of this law.

2. Upon its own initiative ERE, or following the request of the Energy Community Secretariat, shall draft and approve such measures wherever deemed necessary for the promotion of efficient market competition and thus ensure regular functioning of the natural gas market. Such measures should be proportional, non-discriminative and transparent.

#### Article 87

##### **Monitoring and supervision of the natural gas market**

1. ERE shall carry out the monitoring and supervision of the natural gas market under the terms and conditions stipulated in this law and in the market rules.

2. The ERE, in close cooperation with the Competition Authority, shall take the necessary measures for ensuring conditions for effective competition in the natural gas market and possibilities for market abuse are timely intercepted and controlled.

3. At the Annual report, as stipulated in Article 21 of this law, ERE shall include also information on the organisation and functioning of the natural gas market, analysis of the activities of the natural gas market participants, and developments in the natural gas market.

4. The natural gas market operator and the TSO, within their respective competences, shall analyse the organisation of the natural gas market and propose to the ERE measures for its improvement, and shall inform the ERE on any indicated or potential infringements of requirements for activities in the natural gas market.

#### Article 88

##### **Rules on natural market**

1. The organization and functioning of the gas market is based on the market model and its rules. The Minister responsible for energy, in collaboration with stakeholders in the gas sector, ERE and the Competition Authority, designs the gas market model, which is approved by the Council of Ministers.

2. The rules on gas market are based on the gas market model and particularly regulate the following:

a) procedures, principles and standards for the organisation and operation of the gas market, in accordance with the applied gas market model,

b) rules about organising balance groups and the keeping of a register of balance groups and balance group members,

c) rules about the virtual trading point,

ç) contractual relations of the gas market operator with the balance group,

d) responsibilities of the gas market participants for their deviations,

dh) rules for calculating the balancing energy

e) other rules necessary for the organisation and operation of the gas market.

3. The market rules are drafted by the gas market operator and approved by the ERE. These rules are published on the websites of the ERE and the operator of the gas market.

4. In the process of adopting the gas market organisation rules, the gas market operator shall ensure adequate participation of all interested parties, and shall conduct a public debate lasting no less than 15 days.

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CHAPTER VI  
PUBLIC SERVICE OBLIGATIONS

Article 89

**Public service obligations**

1. The activities of transmission and distribution of natural gas, as well as supply of small customers, including household customers, with natural gas shall be carried out as public services.

2. ~~The Council of Ministers, with the proposal of the minister shall approve the conditions and procedures in defining the supplier of last resort.~~ **The Council of Ministers, with the proposal of the minister, shall approve the conditions and procedures for setting public service obligation.** ERE, under the conditions laid down in decisions of the Council of Ministers, and according to the general economic interest, may impose on natural gas undertakings, in the general economic interest, public service obligations in relation to:

- a) security, including security of supply;
- b) regularity, quality and price of supplies;
- c) usage of domestic natural gas resources;
- ç) environmental protection, including energy efficiency, energy from renewable sources and climate protection;
- d) protection of citizens' health, life and property

3. Without prejudice to paragraph 2 of this article, natural gas undertakings shall operate in accordance with the principles of this law with a view to achieving a competitive, secure and environmentally sustainable market in natural gas, and shall not be discriminated as regards their rights and obligations.

4. Any public service obligation imposed by the ERE shall be incorporated in the respective license of the natural gas undertaking without delay within a month, following the procedure for issuing a new license or a modification of a license as defined in article 22 of this law.

5. The public service obligations should be clearly defined, non-discriminatory, transparent and easily verifiable, and they shall guarantee equality of access for natural gas undertakings of the EU member states and Energy Community Parties to national customers.

6. In order to fulfill the transparency requirement, the ERE shall adopt specific measures imposing public service obligations i which shall be incorporated by the ERE in the license of the natural gas undertaking in question.

7. The decisions imposing public service obligation shall:

- a) clearly define such obligation, the kind of regulation, but without limitations, the obligation to supply all households and small enterprises throughout the territory, ensuring continuity of supply, ensuring equal treatment of consumers, ensuring the operation of the national gas supply system at the lowest possible cost, etc;
- b) define the gas undertakings that shall be in charge with provision of public services;
- c) specify the nature of any exclusive or special rights assigned to the gas undertaking in question;
- ç) define the territory and the period for which the public service obligation is imposed;
- d) make clear the funding and the criteria for calculating the compensation that the undertakings entrusted with public service obligation provision will receive.

8. ERE, when imposing the public service obligation must prove in a published impact assessment that the measure is the least restrictive one and that it is proportionate and necessary for ensuring the provision of the public service in question.

9. Financial compensation, other forms of compensation and exclusive rights granted to the gas undertakings for provision of public service obligations shall be done in a nondiscriminatory and transparent way. The costs incurred by any licensee for provision of public service obligations shall be recognized as justified when the tariffs for the services provided are approved by ERE in accordance with article 33 of this law.

10. The ERE shall determine the allocation of the costs of public service obligations imposed under this article to final customers in a non-discriminatory and transparent way. The compensation for these costs must not exceed the costs incurred in the discharge of public service obligations lowered for the revenues earned from providing the service. The compensation may include a reasonable profit. Any compensation to licensees for public service obligation shall be notified and shall take prior approval from the State Aid Commission, in compliance with the legislation on state aid.

11. No licensee shall have a public service obligation to provide gas service in an area in which it is not providing service on the date of entry into force of this law, except if required by regulations subsequently adopted by the ERE in accordance with this law. Such regulations shall provide for a fair allocation of the additional costs of providing such service between those customers seeking such service and existing customers of the licensee.

12. No licensee shall be required to construct a network in an area in which there is no network on the date of entry into force of this law. This is without prejudice to the obligation of the distribution system operator to connect

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final customers to their grid under terms and conditions stipulated in this law and other applicable legal acts.

13. In performing their activities, the licensees subject to the public service obligations shall observe such obligations, and the provision of such services shall be monitored by the ERE.

14. In relation to security of supply, energy efficiency/demand-side management and for fulfilment of environmental goals and goals for energy from renewable energy sources, the Council of Ministers may introduce the implementation of long-term planning, taking into account the possibility of third parties seeking access to the system.

15. The Ministry in collaboration with ERE, shall inform the Energy Community Secretariat of any measure adopted under this Law imposing public service obligations, including customer protection and environmental protection, and of their possible effect on national and international competition upon the entry into force of this law. The Energy Community Secretariat shall be subsequently informed every 2 (two) years of any changes to such measures.

## Article 90

### **Natural gas supply of last resort**

1. The Council of Ministers, on the proposal of the Minister, shall approve the conditions and procedures for determining the supplier of last resort, based on effective competition, nondiscrimination and transparency.
2. Minister responsible for energy, based on conditions specified under paragraph 1 of this article, shall select the supplier of last resort, and proposes such, for approval, by the Council of Ministers.
3. The supplier of last resort shall be appointed for a period of three (3) years. Decision setting contains the terms of service of last resort supply, the information regarding pricing and its amendments, as well as contractual terms
4. The supplier of last resort shall supply a final customer with natural gas, if its supplier has exited the natural gas market due to circumstances which are beyond its control or a severe violation by the supplier of its obligations, with the condition that the customer loses natural gas supply without any form of protection, and the previous supplier hasn't undertaken any measures to protect the final customer.
5. The supplier that is not capable of supplying gas to the final customer, in cases referred to in paragraph 4 of this article, shall be obliged to notify the supplier of last resort, the final customer, the ERE, the TSO and the Distribution System Operator in charge on the date of supply suspension in a timely manner. In such a case the customer is automatically supplied by the supplier of last resort, provided that the customer has filed a preliminary application at the supplier of last resort.
6. In case when the customer supplier ceases its activity, due to revocation of the license, ERE shall inform the supplier of last resort, the final customer, the TSO and Distribution System Operator in charge no later than fifteen (15) days from the date the license in question ceased to be valid, or from the entry into force of the ERE's decision about the temporary or permanent license revocation.
7. TSO and the Distribution System Operator shall submit information to the supplier of last resort about the customers who are transferred to supply of last resort within five (5) days from the notice, in accordance with the paragraphs 5 and 6 of this article.
8. The procedure regarding a supplier's exit from the natural gas market shall be prescribed by the market rules.
9. The supplier of last resort may supply the final customer for a time period the maximum duration of which is 2 (two) months. In case that the final customer fails to conclude the agreement with a new supplier in the above-referred time period, the system operator in charge shall terminate the delivery of natural gas.
10. ERE shall adopt the operational rules for the supplier of last resort.
11. The methodology for the determination of natural gas tariffs in relation to supply of last resort shall be adopted by the ERE. The supplier of last resort shall apply natural gas tariffs related to the supply of last resort such as adopted by the ERE in line with the applicable tariff methodology.
12. Natural gas supply tariffs related from the last resort supplier must be higher than the average of natural gas tariffs for the supply of similar customers supplied on the natural gas market or higher than a price for supply to similar customers that are supplied on the market provided that the contracted natural gas from the supplier of last resort, to be provided based on a competitive procedure and will correspond to the price of the cheapest supply offer in the market; saved as when there is only one offer as a supplier of last resort

In this case ERE shall base its price setting on benchmarking with comparable suppliers across borders.

## Article 91

### Obligations of the supplier of last resort

1. The supplier of last resort shall be established as a legal person, shall unbundle from other natural gas activities, keep separate financial records and prepare financial reports as regards the performance of the supply of last resort.

2. The contract for the supply of natural gas to final customers as regards the supply of last resort shall be considered concluded as from the day on which supply is physically established and provided to the concerned customer whether requested or not by said customer in accordance with applicable rules and conditions provided for in the switching rules and/or the applicable operational rules.

3. The supplier of last resort shall deliver to its final customer a contract for the supply of natural gas within 8 (eight) days after the commencement of the supply of last resort.

4. The supplier of last resort may request suspension of delivery to the final customer due to unsettled liabilities by submitting a request for the suspension of delivery to the system operator in charge.

5. The supplier of last resort shall prepare and publish at least once a year a report which contains the number of supplied final customers, the total amount of delivered natural gas and the average duration of the supply of last resort. This report shall be made available to the Ministry, ERE and the Energy Community Secretariat.

## Article 92

### Supply of natural gas under public service obligations

1. Household customers and small enterprises shall be entitled to be supplied with natural gas by the supplier under public service obligation.

2. The supply of customers referred to in paragraph 1 of this article, on the territory of one distribution service area, may be performed within the framework of supply by one or more suppliers to which a public supply obligation has been imposed by the Decision of the Council of Ministers and/or ERE.

3. The ERE shall determine and adopt the operational rules for suppliers which carry out the supply of natural gas as a public service obligation. These rules, on the basis of which the supply activities are performed as a public service obligation, shall further regulate the activities of such suppliers including, amongst other, their rights and obligations, duration of supply, the termination of their responsibilities, and other matters considered relevant by the ERE. Those suppliers shall, at the latest by 31 March of each year, issue, upon prior approval of the ERE, an annual report regarding its activities with respect to public supply service over the previous year. This report shall be made available to the Council of Ministers and the Energy Community Secretariat.

4. In case the objectives of the public service to households and small customers could not be achieved otherwise under market conditions, the ERE may regulate the end-users' prices provided it complies with the terms and conditions established in this Law.

5. In cases where the ERE regulates the final end-users' price of gas, it shall provide a detailed reasoned explanation of such regulation with exceptional circumstances on the gas market and offering a justification of the necessity for maintaining end-users' price regulation as a public service obligation that complies with the conditions of this article.

6. The ERE shall ensure that the different customers' categories shall not benefit from the same treatment and protection, and that end-users' price regulation is available only for ensuring public service provision to households and small customers.

7. The ERE shall ensure that the gas prices subject to price regulation for the purpose of ensuring public service are cost-reflective. Cost-reflectivity must extend to the real costs of gas supply, including the necessary investments/an appropriate rate of return, the costs of imports, the costs of supply services and bad debts.

8. The supplier under public service obligation shall:

- a) provide supply as a public service to all those final customers who have the right to this type of supply;
- b) perform supply within the framework of public service exclusively under the tariffs set by the ERE and which are based on regulated conditions;
- c) undertake measures to achieve secure, reliable and prescribed quality supply of those final customers whom it supplies within the framework of public service;
- ç) undertake measures to achieve the most acceptable natural gas tariffs for those final customers supplied within the framework of public service, which are an integral part of tariffs based on regulated conditions.

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9. Rather than being transferred to the supplier of last resort under article 90 of this law, household customers, small enterprises and, where applicable, vulnerable customers shall be supplied by the supplier under public service obligation without a specific application having to be submitted by such customers, if their supplier has exited the natural gas market due to circumstances which are beyond their control and that said customers lose natural gas supply without any form of protection, regardless whether the concerned customer is faced with unplanned exit, planned exit or a severe violation by the supplier of its obligations.

10. The contract for the supply of natural gas to final customers within the framework of public supply service shall be considered concluded on the date on which supply is physically established and provided to the concerned customer whether requested or not by said customer in accordance with the applicable rules and conditions provided for in the supplier switching rules and/or the applicable operational rules.

11. The supplier under public service obligation shall deliver to that final customer the contract for the supply of natural gas, in written form within 8 (eight) days as from the day on which supply began.

12. The ERE shall establish an end date for phasing-out the regulated prices for household customers and small enterprises, as well as the plan for doing so, showing clearly the temporary character of such price regulation.

13. The ERE shall carry out reviews of the methodologies and the price level adopted. These reviews after prior consultation with the Ministry shall be submitted to the Energy Community Secretariat which, based on an analysis of the regional market, may propose further measures for phasing out regulated prices in certain categories.

14. The supplier with the public service obligation compiles an annual report on the activity of supplying realized as public service obligation for the previous year. This report must be approved by the ERE no later than March 31 of each year, and made available to the Council of Ministers and the Energy Community Secretariat.

## Article 93

### Standard supply contract

1. ERE shall approve a standard supply contract, concluded between the clients defined in paragraph 1, of Article 92 of this law, and the supplier in charge with the public service obligation.

2. The supplier under public service obligation is obliged to sign a standard supply contract with every household customer and small enterprise asking to be supplied with natural gas.

3. The supplier under public service obligation may refuse the starting of supply with natural gas of a customer or may interrupt the supply of the already started gas supply if:

a) the connection pipeline or the customer's equipment endangers human life or health, or the environment, or the security of property;

b) the customer has not met its obligations specified in the public supply contract in spite of the notice of the public supplier for these obligations;

4. The supplier in charge of the public service obligation is entitled to refuse to supply a customer, as long as the circumstances verified set out in paragraph 3 are verified.

5. The supplier under public service obligation may interrupt the supply of end customers under force majeure circumstances.

## CHAPTER VII

### CONSUMER PROTECTION AND DISPUTE RESOLUTION

## Article 94

### Final customer

1. The final customer enjoys protection in accordance with this law and regulations passed on the basis thereof, as well as other laws regulating the customer protection and/or their implementing regulations. All clients have the right to choose their supplier, domestic or foreign, at unregulated prices, under a supply agreement, which is in accordance with the market rules and general conditions for supply, approved by ERE.

2. The final customer shall pay for the natural gas in accordance with the general conditions and other applied contractual conditions. Terms and procedures for invoicing, collection and payment shall be defined in the general conditions of supply, in accordance with article 95 of this law.

3. Each final customer is entitled to be periodically informed free of charge for all relevant data in relation to its natural gas consumption and respective costs of natural gas, which has been supplied. The ERE shall define a format for the data and a procedure for suppliers and final customers to have access to the measurement data and invoicing.

4. Large non-household customers shall have the right to contract simultaneously with several suppliers. The

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ERE shall adopt, the rules for supply by several suppliers.

5. In the event of technical problems related to the delivery of natural gas and which are not caused by facilities of the final customers, the final customer shall have the right to demand the removal of those disturbances within the shortest possible period of time under the terms and conditions stipulated in the applicable Grid Code.

6. Disruptions due to the implementation of measures for limiting delivery which are undertaken in the event of distortions on the natural gas market shall not be considered as disturbances in the delivery of natural gas referred to in paragraph 5 of this article.

7. Final customers shall use natural gas under the conditions, in the manner and for the purposes established by this law, the Transmission Grid Code, the Distribution Network Code, other applicable acts and in line with respective contractual obligations.

8. The protection of the final customers is guaranteed by ER , the responsible ministry for energy and Trade according with the legislation in force .

## Article 95

### Natural gas supply contract

1. Rights and obligations of every supplier and final customer shall be regulated under the contract for the supply of natural gas.

2. The conclusion and content of the contract for the supply of natural gas shall be further determined by the General Conditions by the ERE in line with the provisions of this law.

3. The General Conditions, with respect to the contract for the supply of natural gas, shall particularly contain the following:

- a) the method for switching contracted terms of supply;
- b) the right of the final customer to terminate the contract;
- c) the method for the notification of a tariff increase before its application;
- ç) the method for the notification of valid tariffs, standard deadlines and conditions, in particular those related to the access and use of services;
- d) the obligation for a final customer to keep any data from that contract, calculations and bills especially tariffs, ways to change tariffs and metering data as confidential data.

4. Each supplier shall ensure that the conditions from the contract for the supply of natural gas which the supplier offers are in line with the general conditions. The conditions of the contract shall be written clearly and comprehensibly and shall not include barriers to exercise the rights of customers. Each supplier shall ensure that final customers are protected from unfair and misleading sales methods.

5. Each supplier shall prepare and in an appropriate manner publish standard conditions for the conclusion of the contract for the supply of natural gas containing conditions established in advance. The supplier shall also appropriately publish applicable prices or regulated tariffs.

6. Based on the General Conditions it shall be ensured that all customers:

- a) are provided with the right to a contract with their suppliers that specifies:
  - i) the identity and address of the supplier;
  - ii) the services provided, the service quality levels offered, as well as the time for the initial connection;
  - iii) if offered, the types of maintenance service offered;
  - iv) the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained;
  - v) the duration of the contract, the conditions for renewal and termination of services and of the contract, the existence of any right of withdrawal;
  - vi) any compensation and the refund arrangements which apply if contracted service levels are not met;
  - vii) the method of initiating procedures for settlement of disputes in accordance with article 98 of this law.

b) are given adequate notice of any intention to modify contractual conditions and are informed about their right of withdrawal when the notice is given.

c) receive transparent information on applicable prices and tariffs and on standard terms and conditions, specifically with respect to access to and use of gas services;

ç) benefit from transparent, simple procedures for dealing with their complaints which shall enable disputes to be settled fairly and promptly with provision, and with customer reimbursement, where is the case;

d) are informed about their rights to be supplied, under this law, with gas of a specified quality at published prices or regulated tariffs.

7. Provisions of the contract for the supply of natural gas shall be fair, proportional, expressed clearly and unambiguously and shall previously notified to the final customer

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8. Provisions of the contract for the supply of natural gas shall not contain obligations that prevent or hinder the consumer on the one side termination of the agreement, the right of changing the supplier and charging the customer with financial obligation for this change.

9. ERE on the approval of the general conditions of contract, shall consult in advance with the ministry, the ministry responsible for commerce and any institution or stakeholder.

#### Article 96

#### **The obligations of suppliers to final customers**

1. Any supplier provides the necessary information for the final customers regarding their rights and the means available for resolving disputes. This information provides to final customers:

- a) notice, in a transparent manner, for the applicable tariffs, duties and standard conditions of access and use of services;
- b) providing some opportunities for payment of duties, without discrimination to final customers;
- c) prepayment delivery system, which should be fair and reflect the real value of consumption;
- ç) receipt of information, on the possibility of changing freely the supplier;
- d) obtaining guidelines for implementing the transparent procedures, simple and economic, in connection with the handling of customer complaints, in particular, the level of quality of service;
- dh) obtaining information on the consumption and cost of natural gas. This information is provided by available within a reasonable time, which takes into account final-customer metering system, and no additional cost to the end customer;
- e) receipt of final closure report, no later than 6 weeks from the moment of changing supplier

2. The supplier must also:

- a) establish customer care centres, which provide information about their complaints and inquiries;
- b) establish special structures for reviewing complaints of final customers, in accordance with the legal provisions governing the protection of customers;
- c) to handle customer complaints, regarding services regulated under the contract for the use of transmission and distribution network.

3. Each supplier will notify the final customer, in advance, within a reasonable time, on changes to the terms of the contract. Final customers are free to terminate the contracts if they do not accept the new conditions that have been notified.

4. Any supplier can supply end customers only if the system operator responsible, with which the final customer has connected his installations, the supplier confirms that the client meets the requirements for a secure supply of natural gas.

5. Any supplier prepares and publishes its program of action:

- a) providing assistance to final customers, in connection with the fulfilment of obligations arising from contracts and are intended to prevent the suspension of supply;
- b) guarantee of natural gas supply to final customers living in remote areas;
- c) undertaking of measures to encourage production of natural gas from renewable energy sources.

6. Any supplier regularly informs its final customers on the measures to improve efficiency in the energy consumption.

7. Each supplier, based on contracts signed, is entitled to issue invoices and collect payments for:

- a) the use of transmission and / or distribution network;
- b) the provision of ancillary services;
- c) other fees, established by the legal acts in force.

8. Each supplier issues an invoice on the basis of the quantity of gas consumed and the billing period, which should be clear and understandable.

9. Any supplier regularly informs its final customers, in connection with the supply of natural gas, including environmental issues. The information provided by the supplier to the final customers must be in accordance with the requirements set by the ERE.

10. ERE ensures that notices given by suppliers of final customers are clear and comparable. ERE can decide which elements of these reports are available to the participants of the natural gas market, ensuring that confidential commercial information about some specific participants or transactions are not disclosed.

11. ERE supervises the handling of complaints of final customers, in accordance with the provisions of this law.

## Article 97

### Protection of vulnerable customers

1. The Ministry responsible for social affairs shall, within 1 year from the entry into force of this law, develop in cooperation with the Ministry responsible for energy and Ministry of finance, and in consultation with the ERE and other stakeholders and entities, a detailed procedure for establishing the status of socially vulnerable customers and to be approved by the Council of Ministers.

2. and the criteria on benefiting by the vulnerable customer status shall consider:

a) customers with lower incomes, who use natural gas to supply their permanent residence;

b) the maximum level of gas consumption per person reflecting seasonality and total consumption of up to 30 cubic meters/month for a family with up to four (4) members.

c) manner of direct support by the State Budget; and

3. Household consumers benefiting a support from the Council of Ministers to pay the gas supply service shall not be allowed to use such funds for other purposes.

4. Household customers that are entitled to public service supply and who have obtained the decision on their socially vulnerable customer status have the right to special protection in accordance with this Law and other regulation developed under paragraph 1 of this article.

5. If, due to a change of circumstances a customer loses the socially vulnerable customer status he shall be deleted from the relevant register, but his data shall remain available for a period of 5 years after his registration into the said register. The concerned distribution system operator shall, in writing and within 8 days, notify the socially vulnerable customer and his supplier regarding the deletion of said socially vulnerable customer from the concerned register.

6. Supplier of vulnerable customers shall be the supplier under a public service obligation.

7. The supplier under a public service obligation shall enter into a supply contract, within 5 days from the registration date of the vulnerable customer, to the distribution system operator, the agreement for gas supply..

8. The distribution system operators shall establish and keep a register of socially vulnerable customers which shall contain the socially vulnerable customer's first and last name, the socially vulnerable customer's personal identification number, the address at which he/she is supplied with gas, the number under which he is listed, the type of special treatment to which he is entitled under the status of socially vulnerable customer.

9. Rights and obligations linked to vulnerable customers, as legally established based on paragraphs 1 and 2 of this article, shall be duly applied and implemented by the Distribution System Operator. The supplier shall represent the contract to the vulnerable customer and shall inform him about the supply rights and conditions, according to the universal service supply.

10. The vulnerable customer shall be supplied with natural gas under tariffs approved by the ERE and in accordance with Article 92 of this Law.

11. The supplier, which supplies natural gas to the vulnerable customers, can interrupt the service, based on specific requirements for this category of customers, approved by ERE.

12. The supply contract of vulnerable customers shall expire at the end of the second month, from the moment the customer deregistration, as a vulnerable customer from the Distribution System Operator. DSO sends information to the supplier for deregistered customers, according to the release notification from the category of vulnerable customers, at the end of each month.

## Article 98

### Dispute resolution

1. ERE is authorised to resolve disputes between the licensees in the natural gas sector as well as among them and customers. This definition does not exclude the right of the client to the appeal of other competent bodies, according to the legislation in force.

2. ERE shall approve the regulation on the procedures on the dispute resolution in accordance with the paragraph 1 of this Article.

3. ERE decisions resolving disputes shall have binding effect unless and until overruled by a final ruling of a court of competent jurisdiction.

4. ERE shall approve general standards concerning complaints from the licensees.

5. With respect to complaints by interested parties against a system operator related to access or storage facilities, the ERE shall issue a decision within two months after receipt of the complaint. This two-month period for resolution may be extended by two additional months where additional information is sought by the ERE or by agreement of the complainant.

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CHAPTER VIII  
INSPECTION, SUPERVISION ADMINISTRATIVE OFFENCES AND SANCTIONS

Article 99

**The responsible authority for the inspection and supervision**

1. The ministry shall be responsible to supervise the enforcement of this Law and its bylaws adopted pursuant to this law, excluding the acts adopted by the ERE.
2. The Ministry shall supervise the implementation of the obligations defined in this law regard to the construction activity and the use of gas sector infrastructure and their utilization technical rules from natural gas undertakings.
3. The Ministry and ERE, within the scope of their respective competences, shall supervise the implementation of the obligations undertaken for public service as defined in Chapter VI of this Law "The public service obligations" .
4. The Ministry shall supervise the implementation of plans and programs, the approval of which is defined in this law and other relevant legal acts in force.

Article 100

**Supervision and inspection**

1. In compliance with the obligations defined in this law, the Ministry exercises its supervisory functions, through its structures and the state inspectorate responsible for gas. The exercise of the supervisory functions of the ministry shall be carried out on the basis of rules and procedures adopted by the Council of Ministers.
2. During their supervisory functions the Ministry and state inspectorate responsible for the natural gas shall notify the entities that are subject to supervision on irregularities and shortcomings identified and shall to propose a deadline for their eradication/elimination thereof.
3. If the entities subject to supervision fail to eliminate irregularities and shortcomings identified within the stipulated deadline the Ministry shall undertake measures to eliminate them.
4. In cases where the irregularities and deficiencies identified may have adverse effects on the interests of citizens or the functioning of the Ministry, the Ministry shall immediately inform the Council of Ministers and other authorities, and will propose measures for their elimination.
5. In cases where the irregularities and shortcomings referred to in paragraph (2) of this article are identified in the course of supervision of gas undertakings that perform regulated activities have not been eliminated within the deadline stipulated, the Ministry may require the Energy Regulatory Authority to initiate proceedings in accordance with the stipulations of this law.

Article 101

**The State Inspectorate in charge of the gas sector**

1. The State Inspectorate in charge of the natural gas sector surveillance should perform inspective surveillance of the facilities for transportation, storage and distribution of natural gas and other relevant gas facilities, acting in compliance with the provisions of this Law and relevant regulations approved by the minister.
2. The inspection includes surveillance of the implementation of the provisions as stipulated in this law, other bylaws, rules, standards, technical specifications and quality norms about performance gas activities by natural gas undertakings, public sector entities and users of the gas system.
3. During the inspection, the inspection authorities, may hire professionals from other agencies and institutions or other entities to perform certain tasks related.

Article 102

**Arrangement of combined inspections**

The Minister in collaboration with other ministers, can order combined inspection, when:

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- a) it is necessary to eliminate an immediate danger to human health and life, or high damaged committed toward the citizen property.
- b) it is necessary to take urgent measures that cannot be put-off ;
- c) is necessary due to the complexity of supervision or the importance of eliminating shortcomings ;
- ç) it is necessary to perform the audit of gas undertakings carrying a particular importance in the gas field;
- d) it is considered that the supervision conducted as stipulated this way can be performed faster, at a lower cost and in less time/time efficiently for both parties, who are subject of the supervision and controlled by the inspectors;
- dh)it is necessary to review the results achieved, or any other initiative or complaint made, while the issue in question is under the competence of the inspection authorities.

#### Article 103

#### **Duties of the natural gas undertakings, the public sector entities and natural gas system users**

Natural gas undertakings, and natural gas system’s users are obliged to act by complying with the request or the order issued by the inspection authority defined in Article 101 of this law, more specifically:

- a) they should enable inspection performance;
- b) provide information about the documents and data necessary for supervision;
- c) provide the conditions necessary on determining the factual situation;
- ç) to provide, within the time specified, access to facilities, products, or any other documents that are subject to inspection
- d) to cease the operation along the inspection based upon a written request by the inspection authority, if deemed necessary, with the aim of achieving inspection and evaluation of factual situation;
- dh) to represent to an inspection, upon written request and within a period specified in the request of the inspection, the inspector or submit prepared, accurate and complete, reports, documents or other materials required

#### Article 104

#### **Natural gas metering**

1. The operators of the transmission system, distribution system, storage facilities and LNG terminals, as well as direct lines are responsible for metering activity and for the service of meters’ reading in compliance with the rates shown in the meters in their respective installations of natural gas. The metering system installed at the customers, is the property of the respective operator. ERE approves the Metering Code for the metering systems and metering of the natural gas, drafted by the operators defined in Article 1 of this law.

2. Under ERE’s approval the transmission and distribution system operators, storage facilities and LNG terminals, may contract independent operators for completing the metering activity and / or provision of services related to meters’ reading within their respective networks.

3. The amount of natural gas being transported, stored, supplied or distributed toward the final customers throughout installations and facilities of transmission and distribution system operators, storage facilities and LNG terminals, as well as direct lines, is gauged by metering devices, in compliance with specific rules set out in the Network Code regulations for gas storage system, regulations for the use of LNG terminal, as defined in articles 44, 55, 67 and 74 of this Law as well as other laws in power linked with the realm of metrology.

The transmission and distribution system operators, storage facilities and LNG terminals, are obliged to ensure that the customer shall have access at any time to to read and monitor of natural gas metering equipment. Such service shall be provided free of charge.

4. Installation, maintenance and accuracy verification are in charge of the transmission and distribution system operators, storage facilities and LNG terminals as well as direct lines at their own expenses.

The meter and/or the natural gas metering system after installation should be sealed by the system operator with stamp approved by the General Directorate of Metrology. The meters of natural gas should be in compliance with the legislation on measuring instruments.

The level of accuracy concerning the meters of natural gas, is defined in the Metering Code, approved by the ERE.

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5. In case when along the metering activity, intelligent metering systems are implemented to final customers, then the implementation of intelligent metering systems will be subjected to a preliminary assessment performed by the system operators that shall take into account, the costs, benefits, technical safety, life protection and health of citizens. Such evaluation shall be approved by ERE.

Based on the assessment the system operator prepares a calendar for implementing of intelligent metering systems, within a 10 year period, which is approved by the competent minister of energy.

6. ERE may request from the transmission and distribution system operators, storage facilities and LNG terminals, to run periodically metering check-ups for each installation of natural gas, and each costumers' category. The frequency of meters verification installed to the customer's premises, is defined in the Metering Code. When determining the periodicity of metering verification, ERE shall take into account the opinion of General Directorate of Metrology.

7. Verification of natural gas meters is conducted by the General Directorate of Metrology (GDM) or by a legal person authorized for this purpose, according to the laws in power.

8. The meters are verified before putting them into use, applying the method of sampling based on the random selection and running it on frequent basis. The meters' verification can be performed at the request of the transmission and distribution system operator, storage facilities and LNG terminals. This can be accomplished on the ground, where the meter is installed or near the GDM laboratory or the authorized legal person.

9. During the verification process of the natural gas meters, by the GDM or the authorized juridical person, a representative of the system operator concerned should be present.

GDM shall approve the procedures on the verification on natural gas metering.

10. The financial costs related to the verification prior putting them in use, the periodic verification of meters or check-ups initiated by the system operator concerned, are borne by the latter.

ERE takes into account the costs incurred by the operator during the approval of the respective fees.

11. Fees for services provided by the GDM or authorized legal person under this section are liberalized, on condition of not exceeding the ceiling tariffs approved by joint decision of the minister in charge for the economy and the minister in charge for energy.

12. ERE approves the standard contract between system operator and GDM or the authorized entity authorized on its behalf to verify the meters.

13. Any interference in the metering system and natural gas meters by unauthorized persons is prohibited and punished according to the laws in power.

14. When the customer doubts the accuracy of the metering equipment, presents a written request to the network operator, and any other institution responsible for the protection of customers. Natural gas metering equipment is verified by the GDM or a legal entity authorized / licensed, provided that the latter is not included earlier in his verification.

15. When, after verification, inaccuracies in measuring and no evidence of intentional damage, made by the final customer, the cost of verification, repair or replacement of the meters shall be covered by the system operator concerned. In this case shall be calculation an estimation of the amount of the natural gas that has been billed more or less as a result of inaccuracies in measuring, setting the mode of reimbursement under the rules and procedures foreseen in the Metering Code.

In cases when the meeting equipment verification is made at the request of the customer and during the verification there are no inaccuracies, the verification costs shall be paid by the customer that filed the complaint.

16. If there is evidence that the meter is damaged or interfered by the final customer, the provisions of the respective legislation shall be applied.

17. The procedure for filing, reviewing as well the terms of notification of an application shall be approved by the ERE.

#### Article 105

#### **Proceeding in cases of non-implementation of legal requirements**

1. If, along the inspection , the inspector representing the State Inspectorate in Charge for the natural gas sector shall identify that the provisions of this law, bylaws, rules, standards, technical specifications and quality levels are not as required, or further have been inappropriately implemented, it shall approve a decision whereby it demands:

a) the elimination of shortcomings identified, that may have negative impact in the facilities and other equipment functionality and will also set up a deadline for their remedy;

b) will prevent utilization of the object, facility and other equipment or installations in cases when the subject has failed to remedy, in a fashion time, the shortcomings identified;

c) will prevent usage and construction of the object, facility, equipment or installation until the identified shortcomings are fully remedied.

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2. In case of repeated violation as stipulated in paragraph 1, the inspector proposes to impose sanctions/penalties in compliance with article 106 of this law.

3. The Inspectorate notifies the Ministry on the offenses as described in paragraphs 1 and 2 of this Article, and informs ERE upon the decision granted in case of not complying measures defined under paragraphs (1) and (2) of this Article, hence demanding the license revocation.

## Article 106

### Administrative offences

1. The below listed infringements, in cases when they do not establish a criminal offense, they constitute an administrative offense, punishable by the responsible entity as it follows:

a) shall be punishable by ERE with a fine from 0.1 percent up to 0.5 percent of annual income of the previous year of the licensee for the violations by licensed entities:

i) Carrying out of an activity in the natural gas sector without the relevant license issued by the ERE as stipulated under article 22 paragraph 1 of this law. Also will be considered administrative offenses, breaches committed by subjects falling under this law, violating the conditions stipulated in the license regulated under the provisions of article 50 paragraph 4, article 75 and article 85 paragraph 4, as well as actions performed against the regulations of Article 41 paragraphs “b”, “c”, “ç”, “d”, “dh”, “e”, “ë”, “f”, “g” and “gı” of this law.

ii) rejection to submit data, information, periodic reports or late delivery of them, as well as submission of incorrect data from the licensee, in breach of articles 17, paragraph 1/a, 37, paragraph 6, 39, paragraph 2, 40, paragraph 2, 53, paragraphs 5 e 6, 63, paragraph 6, 66, 73, 87, paragraph 4, 92, paragraph 3, 95, paragraph 5, paragraph 97, paragraphs 1, 2, 5, 7 e 9, of this law.

iii) Failure to comply with obligations linked to the calculation and application of costs and tariffs, as required under Article 17 paragraph 1, letter (dh); article 33 paragraphs 1-7; article 90 paragraphs 10 and 11; article 56 paragraph 4 of this law;

iv) Failure of to comply with the public service obligations imposed in compliance with the requirements of article 92 paragraph 11; 93 paragraphs 2 and 4;

v) Failure to meet the obligation of keeping separate bank accounts in compliance with the requirements of articles 30, 75, 80 paragraph 6 and article 85 paragraph 6.

vi) Failure to comply with the requirements concerning the third party access in the network as stipulated under articles 42 paragraphs 1-3, article 54, 64 and 71 of this law;

vii) Failure to meet the requirements stipulated under the standard form contracts as well as setting up additional conditions in the contract of natural gas supply, as well as failure to notify, in breach of articles 76 paragraph 5 and 90 paragraph 4.

viii) Non-publication of information concerning tariffs and general terms of network access as well as usage of network services as stipulated under article 33 paragraph 8;

ix) Failure to submit investment program or failure to complete planned investment as stipulated under the articles 46 and 56 of this law and the relevant ERE bylaw;

x) Breach of terms and conditions regarding the quality of supply as approved by ERE and stipulated under article 89 paragraph 4, of this law;

xi) Failure to implement ERE decisions.

xii) Failure to meet the requirements settled under articles 39 paragraphs 4 and 6 as well as 60 paragraph ç, of this law;

xiii) Failure to undertake measures for drafting the compliance program and the appointment of the compliance officer as stipulated under articles 47 paragraph 1, 51 paragraph 5 and article 80 paragraph 7, of this law;

xiv) Failure to meet responsibilities charged to the storage system operator and the LNG one as stipulated under the articles 61 and 69 of this law;

xv) Application in the contract that are about to terminate, of additional terms, in breach of article 76 paragraph 5 stipulations;

xvi) Failure to send notification to costumers, from the last resort supplier in breach of article 90 paragraph 4 stipulations;

xvii) Failure to meet the requirements of article 77 concerning the record keeping;

xviii) Failure to comply with the requirement to sign contract according to article 96 paragraph 8 regarding costumers that fulfil the requirements of paragraph 1 of this article.

b) shall be punished by state inspectorate responsible for gas sector with a fine from 0.1 percent to 0.5 percent of annual income of the previous year of the licensee for violations performed by entities equipped with approval, under the terms of Article 11 of this law, as well as in the case of direct lines;

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i) For any breach of technical safety regulations established by the Council of Ministers according to paragraph 1 of article 10 of this law, which shall be penalized by the Central Technical Inspectorate with the sanctions stipulated by the legislation in force;

ii) failure to comply with the technical safety rules as stipulated under article 10 paragraph 1.

iii) disregard of the technical requirements of safety and performance of activities provided for in the law, contrary to the rules on environmental protection, according to paragraph 6 of Article 10 of this law, shall be fined under legislation on environmental protection.

iv) construction and usage in breach of criteria stipulated in article 11 as well as the requirements of the permit application

v) excess of the terms included in the signed contract as stipulated under article 11 shall be considered as breach of this law

vi) failure to comply with article 11 paragraph 7 of this law, shall be fined from the responsible ministry of energy.

vii) failure to comply with article 12 paragraphs 3 and 8 of this law.

c) the Inspectorate reaches a decision and notifies it within 60 days from the date the inspection charge-sheet has been notified to the subject.

ç) ERE or/and the Responsible State Inspectorate for natural gas sector will levy progressive punishments/fines calculated over each day of delay of the persisting breach, as it follows :

i) When the licensee fails to comply with the ERE's decision to remedy a breach within the time specified on it. In this case, the licensee is punished by a fine of 0.1% over the median daily turnover accumulated in the preceding business year for each day of delay from the day of the deadline specified in the relevant decision of ERE.

ii) When the licensee fails to perform his obligation of paying the regulatory fee to ERE, he is fined in the amount of 0.2% of the average daily turnover in the preceding fiscal year for each day of delay from the due date.

2. The Board of Commissioners of ERE establishes and approves a special bylaw concerning the conditions and procedures for levying fines, which undergoes consultations in advance with the licensees in gas sector, prior to their approval.

3. The Minister, following proposal from the responsible State Inspectorate for the gas sector, enacts in a specific bylaw the conditions and procedures for levying fines, which undergoes consultations in advance with the licensees in gas sector, prior to its approval.

4. The procedures of levying fines and execution of penalties is done in compliance with law no 10279 date 20.05.2010 "On administrative offences"

5. The appeal against the ERE's decision or the decision of the State Inspectorate responsible for the gas sector upon levying fines, due to committing an administrative offence is filed in in compliance with 10279 date 20.05.2010 "On administrative offences".

6. The decisions of ERE or the responsible State Inspectorate for the gas sector, for finding and levying a penalty to the licensee / the permit holder is an executive title and enforceable in compliance with Code of Civil Procedures.

7. Implementation of administrative offenses shall not allow the subjects of this law, the circumvention of other obligations stipulated under this law as well as it cannot circumvent the civil liability for damages incurred enforceable by other statutory laws.

## Article 107

### Confidentiality obligations

1. ERE, ministry and other competent authorities shall preserve the confidentiality of commercially sensitive information provide by natural gas undertakings, and shall use the data and information obtained only for the purposes indicated in their request for information. The confidential information may be disclosed only under the terms and conditions established by the laws.

2. The TSO, the Distribution System Operator the natural gas market operator, storage system operator, the LNG operator, the market gas operator, the supplier, the natural gas trader, the natural gas produces as well as ERE shall preserve the confidentiality of commercially sensitive information obtained in the course of carrying out their activities, and shall prevent information about their own activities which may be commercially advantageous from being disclosed in a discriminatory manner. Such information may be disclosed only under the terms and conditions established by the laws, or in case where the parties have expressly agreed.

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## Article 108

### **European Union Guidelines and Network Codes**

The ERE and Ministry shall cooperate with the Energy Community Secretariat, the Regulatory Board of the Energy Community and the competent regulatory authorities and other parties to the Energy Community for the transposition, in Albanian legislation, the community acts to the natural gas sector.

## CHAPTER IX TRANSITORY AND FINAL PROVISIONS

## Article 109

### **Transitory provisions with regard to unbundling of the TSO**

Conditions for independence and unbundling of the Transmission System Operator, as required by this law, shall be properly implemented by 1 June 2016.

## Article 110

### **Transitory provisions with regard to certification in relation to third countries**

1. Article 40 of this law shall apply from 1 January 2017.
2. The TSO shall provide the ERE with all relevant data and information necessary for proper implementation of requirements and obligations under Article 40 of this law within 3 (three) months from the date indicated in paragraph 1 of this article.

## Article 111

### **Transitory provisions with regard to unbundling of the Distribution System Operator**

1. The Distribution System Operator and, where relevant, the vertically integrated undertaking or any private entities or public bodies related thereto shall harmonise their internal organisation, corporate structure, contractual arrangement and activities with the provisions of this law with regard to the rules regarding the unbundling of the distribution system operator within 18 months from the date of entry into power of this law.
2. Paragraph 1 of this article shall not be applied in case the exemption for unbundling of the distribution system operator is granted under article 52 of this law.

## Article 112

### **Transitory provision with regard to the adoption of the consumer checklist**

1. If established by the competent authorities prior to the entry into force of this law, the ERE shall ensure that natural gas suppliers take all the necessary steps to provide their consumers with a copy of the consumer checklist and ensure it is made publicly available within 12 (twelve) months of the date of entry into force of this law.
2. If the checklist is not established prior to the entrance into force of this law, the suppliers shall be obliged to fulfil the obligations contained in paragraph 1 of this article within 2 (two) months of the request of the adoption of such a consumer checklist.

## Article 113

### **Treatment of existing permits and requests for construction of gas pipelines and other gas infrastructure installations**

1. Concession permits for construction and use of gas pipelines and other gas infrastructure installations granted by the Council of Ministers according to the provisions of the law no.8450, dated 24.02.1999 “On refining, transporting and trading of oil, gas and their byproducts”, as amended, shall be valid for the term they are issued.
2. ERE shall issue the relevant license to persons who have received a concession permit for construction and use of gas pipeline and other gas infrastructure installations as set forth in paragraph 1 of this article for performing one or

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more activities in the natural gas sector according to provisions of this law.

3. All natural gas undertakings which were granted a license or permit for activities in the natural gas sector prior to the entry into force of this law shall pursue such activities on the basis of the conditions imposed by such license or permit. When such license or permit has come to an end, natural gas undertakings shall immediately proceed with a request for a new license or, where appropriate, permit on the basis of the rules set out in this Law.

4. Proceedings initiated before the entry into force of this law shall be completed by applying the provisions of the respective legal and regulatory requirements which have been in force at the date of the start of such proceedings.

#### Article 114

##### **Treatment of existing rights and licenses issued by ERE**

1. For the avoidance of doubt, paragraphs 1 – 17 of Article 78 shall be deemed to apply to and to have been satisfied by major gas infrastructures exempted by the ERE under Article 40 of Law 9446 “On natural Gas Sector” as amended, prior to the amendment of that Article and in so far as the ERE’s exemption decision has not lost its effect in accordance with Art 78 paragraph 18 of the law.

2. The provisions of the article 11 paragraph 3, 22 paragraph 5 and 44 do not extent their legal effect of exemptions granted under Art 40 of law 9946 dated 30.06.2008 “On natural gas sector” as amended.

3. In so far as the charges for performing public service obligations as referred to in Art 89 paragraph 14 and 15 cannot be included into tariffs calculation for exempted projects under Art 40 of law 9946 dated 30.06.2008 “On natural Gas Sector” as amended, then such public service obligations cannot be applied and ERE may not impose such conditions in transmission license granted for such exempted projects”.

4. Licenses issued by ERE, for natural gas activities, in compliance with law 9946 date 30.06.2008 “On natural Gas sector” as amended, will be enforceable and implemented in accordance to the terms and conditions provided in them.

#### Article 115

##### **Binding effects of the current statutory laws**

1. Decision no. 713, dated 25.08.2010 of the Council of Ministers "On establishing the rules for the terms and procedures upon issuing permits for the construction and use of pipelines and infrastructure of natural gas systems", enacted to implement Article 8 of Law no. 9946, dated 30.06.2008 "On the natural gas sector", as amended, will continue to have legal power as far as does not conflict with the provision of this law and will have reference under Article 11 of this law.

2. Decision no. 1030, date 27.11.2013 of the Council of Ministers “ On the approval of technical rules and safety criteria, first part, the minimal requirements for the technical design, construction and operation of the transmission and distribution systems of natural gas, Installation of LNG storage facilities and direct lines ", enacted to implement paragraph 1 of Article 7 of Law no. 9946, dated 30.06.2008 "On the natural gas sector", as amended, will continue to have legal power as far as does not conflict with the provision of this law and will have reference as in compliance with paragraph 1 of Article 10 of this law.

3. Decision No. 104, dated 04.02.2015, of the Council of Ministers "On approval of technical and safety criteria, the second part, the minimum requirements for the technical design, construction and operation of transmission systems and distribution of natural gas, Installation of LNG and storage facilities and direct lines ", adopted in pursuance of paragraph 1 of Article 7 of Law no. 9946, dated 30.06.2008 "On the natural gas sector", as amended, will continue to have legal power as far as does not conflict with the provision of this law and will have reference as in compliance with paragraph 1 of Article 10 of this law.

4. Decision No. 551, dated 18.6..2015, of the Council of Ministers "On approval of the criteria and procedures for obtaining professional certificate permit of the activities of study-design and implementation of exploration, production, refining, transport, storage and trade of hydrocarbons” shall remain in force as far as does not conflict with the provision of this law and will have reference as in compliance with Article 5 of this law.

5. Order Nr.666 date 03.08.2009 issued by the Minister of Economy, Trade and Energy, "On the approval of technical and safety requirements, temporary, the minimal requirements for the technical design, construction and operation of transmission and distribution systems of natural gas, the LNG and storage facilities and direct lines "based upon paragraph 2 of Article 7 of law No. 9946, date 30.06.2008" On the natural gas sector ", as amended, shall remain in force as far as does not conflict with the provision of this law and will have reference as in compliance with paragraph 2 of Article 10 of this law.

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Red color are reflected the amendments of Law no 81/2021 “On some additions and amendments to Law no. 102/2015, “On Natural Gas Sector”.  
Violet color are reflected the amendments of Law no. 89/2018 “On some additions and amendments to Law no. 102/2015, “On Natural Gas Sector”.  
Cherry color are reflected the amendments of Law no. 64/2018 “On some additions and amendments to Law no. 102/2015, “On Natural Gas Sector”.

## Article 116

### Bylaws

1. Council of ministers within 12 months from the entry into force of this law shall approve the bylaws for implementing article 5, paragraph 5; article 6 paragraph 1; article 11 paragraph 2; article 27 paragraph 5; article 88 paragraph 1; article 89 paragraph 2; article 90 paragraph 1; article 97 paragraph 1 and article 100 paragraph 1 of this law.

2. Council of ministers within 24 months from the entry into force of this law shall approve the technical rules, as defined in article 10 paragraph 1 of this law.

3. The responsible Ministry of Energy within 12 months from the entry into force of this law shall approve the bylaws for implementing article 10, paragraph 2; article 23 paragraph 4; article 58 paragraph 2; article 101 paragraph 1; article 106 paragraph 3, of this law.

4. ERE within 18 months from the entry into force of this law shall approve the bylaws for implementing article 14; article 16 paragraph 1 letter "a", "b" and "c" 2, 10, 13, 14, 16, 17, 18, 24 and 27; article 18 paragraph 2; article 20, article 23 paragraph 1; article 24 paragraph 1; article 29 paragraph 2; article 32, paragraph 1; article 38, paragraph 2; 44, paragraph 1, e 2, letter "g"; article 46, paragraph 12; article 47, paragraph 3; 48, paragraph 8; article 53, paragraph 3, 7 and 8; article 54, paragraph 1; article 55, paragraph 2; article 63, paragraph 2; article 67, paragraph 3; article 74, paragraph 3; article 76, paragraph 2; article 84, paragraph 5; article 85, paragraph 1; article 88, paragraph 3; article 89, paragraph 11; article 90, paragraph 10 e 11; article 92, paragraph 3; article 93, paragraph 1; article 94, paragraph 3 e 4; article 95, paragraph 2; article 96, paragraph 9, article 97, paragraph 11; article 98, paragraph 2 e 4; article 104, paragraph 1 and 12; and article 106, paragraph 2, of this law

## Article 117

### Revocations of Laws

Law no. 9946, dated 30.06.2008, "On natural gas sector" as amended, is repealed

## Article 118

### Entrance into force

This law enters into force 15 days after publication in the Official Journal.

DEPUTY CHAIRPERSON

**Valentina LESKAJ**

Approved on 23.9.2015