

# Romania

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## Description of domestic sector

- 1 Describe the domestic natural gas sector, including the natural gas production, liquefied natural gas (LNG) storage, pipeline transportation, distribution, commodity sales and trading segments.

Romania is the largest gas producer in Central and Eastern Europe. Last year Romania produced over 12 billion cubic metres of natural gas.

The internal gas production is dominated by two big players – Petrom SA and SNGN Romgaz SA (Romgaz). In addition, there are four more gas producers, Amromco, Toreador, Wintershall Medias, and Aurelian Oil&Gas.

The majority of shares in Romgaz, 85.01 per cent, is held by the Romanian state. Romgaz has over 3,600 productive wells, six underground storage deposits with a total capacity of 2,550 million cubic metres per quarter and over 3,000km of transmission pipelines.

Petrom is currently owned by the Austrian company OMV, which holds 51 per cent of the shares and by the Romanian state, which has 30.862 per cent of the shares. Petrom holds oil and gas resources estimated at the equivalent of almost 1 billion oil barrels. Petrom has the concession right on over 19 exploitation, developing and production perimeters, respectively 300 fields of oil and gas.

With regard to distribution, the market is divided between 34 companies, the largest being the old Distrigaz companies, currently known as Distrigaz Sud, which is held by Gaz de France, and E.ON Gaz Romania, owned by E.ON Ruhrgas. The major problem the distributors have is the constant necessity of changing the old networks and pipelines systems.

Regarding gas transmission, there is only one company operating the gas transmission system, SNTGN Transgaz SA Medias (Transgaz), in which the Romanian state holds over 73.6 per cent of the shares. Transgaz is listed on the Bucharest Stock Exchange, and is one of the companies that will contribute to the developing of the Nabucco gas duct connecting Azerbaijan with Europe.

There are three companies with storage capacity, Romgaz, Amgaz, and Depomures.

Over one-third of the gas used in Romania currently comes from Russia, and this is expected to increase due to internal gas reserves being gradually used up.

Currently there are no production, distribution, transmission, storage or utilisation facilities for LNG in Romania.

The regulatory authority of the physical gas market in Romania was the National Regulatory Authority of the Natural Gas Sector, ANRGN, which no longer exists as a stand-alone authority. Its responsibilities have been taken over by the Romanian Energy Regulatory Authority (ANRE).

ANRE collaborates with public authorities and other organisations, legal entities acting in the power sector and in natural gas

sector, international organisations acting in the energy field ensuring the transparency and objectivity of the regulation process.

- 2 What percentage of the country's energy needs are met directly or indirectly with natural gas and LNG? What percentages of the country's natural gas needs are met through domestic production and imported production?

Natural gas production was 12.3 billion cubic metres in 2006 and covered over 69 per cent of annual natural gas consumption. In November 2008, natural gas internal production covered 74.65 per cent of natural gas consumption according to the data provided by ANRE.

According to the data provided by ANRE, formerly ANRGN, last year, Romgaz had over 54 per cent of the gas market and Petrom 43.1 per cent. Another four foreign capital companies divide the rest of the production as follows – Amromco 1.5 per cent, Wintershall Medias 0.07 per cent, Toreador 0.10 per cent and Aurelian Oil&Gas 0.14 per cent.

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## Government policy

- 3 What is the government's policy for the domestic natural gas sector and which bodies set it?

The Romanian energy sector is still undergoing a restructuring process and has to benefit from special attention due to its importance for the entire Romanian economy and in view of complying with all the EU provisions negotiated by Romania for the energy system.

With regard to natural gas production and transmission, the following measures shall be taken into consideration:

- the privatisation of the main gas producer (Romgaz);
- increased geologic activities to prevent or mitigate decreasing production;
- the concession of usage rights over the pipeline transmission system and of gas storage facilities. No concessions over Romania's national pipeline transmission system have yet been granted, depriving the system of a financing source;
- the restructuring of the natural gas pipeline transportation system; and
- increasing gas storage facilities.

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## Regulation of natural gas production

- 4 What is the ownership and organisational structure for production of natural gas (other than LNG)? How does the government derive value from natural gas production?

With regard to ownership and the organisational structure for production of natural gas, please see question 1.

In addition to the taxes paid by operators in the gas sector as economic agents, the state derives value from the natural gas production through royalties, which are applied on a sliding scale, in relation to the volume of gross production extracted, and range between 3.5 per cent, for blocks that produce under 10 million cubic metres per quarter, and 13 per cent, for blocks that produce more than 200 million cubic metres per quarter. The said percentages of royalties are established by Petroleum Law No. 238 of 2004, which also applies to natural gas in respect of imposing the level of royalties.

- 5 Describe the statutory and regulatory framework and any material governmental or administrative authorisations applicable to natural gas exploration and production.

As mentioned above, the competent authority in the natural gas sector is ANRE, a public autonomous institution, established as a legal person, entirely financed by own means, which carries out its activity based on its own organisation and operation regulations approved by the government.

ANRE has two main departments: the power (electricity) department and the natural gas department.

The Natural Gas Department of ANRE acts pursuant to the provisions of Gas Law No. 351 of 2004, as amended (the Gas Law). This law covers the following activities related to the physical gas market: production, transmission, distribution, supply, and storage of physical gas, as well as design and execution activities related to them.

ANRE was assigned to draw up, establish and monitor the implementation of mandatory regulations for the natural gas sector under conditions of efficiency, competition, transparency and consumer protection.

Natural gas production, transport, storage and distribution facilities, the land belonging to the same, as well as the natural gas transmission, storage and distribution may be granted into concession to Romanian or foreign legal entities. Such concession is governed by the Gas Law and Government Emergency Ordinance No. 34 of 2006 Regarding Public Procurement, Concession Agreements for Public Works and Concession Agreements for Services (Ordinance 34), in effect since 30 June 2006, amended by Law No. 337 of 2006 and further amended by Emergency Government Ordinance No. 94 of 2007.

According to the provisions of Ordinance 34, the public procurement rules are also applicable to 'sectorial agreements', namely public procurement agreements whereby a relevant activity is performed in the public utility sectors (water, energy, transport and postal services).

To apply the public procurement rules, the relevant activities must be conducted by any person, individual or legal entity, on the basis of a special or exclusive right granted for carrying out such activity.

The activities regarding the production, transmission, distribution, and supply of natural gas are considered to be relevant activities.

According to ANRE, the current structure of the natural gas market includes six domestic producers: Petrom, Romgaz, Amromco (a US-based company), Toreador (a US-based company), Wintershall Medias and Aurelian Oil & Gas (a UK-based company).

According to the provisions of Law No. 554 of 2004 on Administrative Litigation, as subsequently amended (Law No. 554), the decisions of ANRE can be appealed based on the procedure provided by Law No. 554, by filing a prior complaint with ANRE, which should answer this complaint within 30 days as of its registration; or by filing an appeal with the Court of Appeals, if the answer from ANRE is not satisfactory or ANRE does not answer to the initial

complaint.

The appeal can be filed with the Court of Appeals within six months as of the issuance of the answer, or the expiry of the 30-day deadline mentioned above.

### Regulation of natural gas pipeline transportation and storage

- 6 What is the ownership and organisational structure for pipeline transportation and storage of natural gas?

#### Pipeline transmission

The National Transmission System (NTS) is state-owned and operated by Transgaz.

The components of the NTS, as published by Transgaz, are the following:

- 13,110km of transmission pipelines and gas supply joints, including over 560km of international transit pipelines;
- 21 valve control stations or technological nodes;
- 961 stations regulating, metering delivery of the gas supplied;
- two import gas metering stations;
- six gas metering stations on the gas transit pipeline;
- six gas compressor stations located on the pipeline route;
- 857 cathodic protection stations of the gas transmission pipelines; and
- 575 gas odorization stations.

In addition to these, there are upstream feeding pipelines, ensuring the transmission of the natural gas from the production and storage facilities to the transmission and distribution system.

#### Storage

Three companies operate underground gas storage facilities, Romgaz, Amgaz and Depomures. These are state-owned companies.

- 7 Describe the statutory and regulatory framework and any material governmental or administrative authorisations applicable to the construction, ownership, operation and interconnection of natural gas transportation pipelines and storage facilities.

Such statutory and regulatory framework is established by government decisions, decisions of ANRE, and orders of the Ministry of Economy. The general framework is provided in the Gas Law, which sets out the necessity of obtaining permits and licences for activities in the gas sector. The construction of transmission, transit, and gas storage facilities is subject to permits granted by ANRE, as provided for by article 44 of the Gas Law. Such permits must be obtained for construction, functioning, and changes to such facilities in the gas sector.

The companies that carry out activities regarding the design and construction of such facilities must be also authorised by ANRE.

In addition to the specific conditions and requirements provided in the regulations specific to the gas sector, a building permit must be also obtained for such construction works in accordance with the provisions of Law No. 50 of 1991 on the Permitting with regard to Construction Works.

- 8 How does a company obtain the land rights to construct a natural gas transportation or storage facility?

The Gas Law provides an adequate legal basis for the statutory land easements related to gas production, and for their enforcement. Article 86 of the consolidated Gas Law provides that the concessionaires of gas production perimeters have:

- the right of use in relation to the necessary works for the rehabilitation of the gas production installation;

- the right of use for assuring the normal operation and maintenance of the gas production installation;
- the legal underground, surface, and air right of way for the installation of pipelines, power lines or other equipment related to the gas production installation, and for access to the location of such ancillary equipment;
- the right to obtain the reduction or cessation of activities that would endanger public safety; and
- right of access to utilities.

It is important to note that in addition to establishing a statutory easement for operations related to gas production, the above provision also gives the right to the concessionaire to demand the reduction or cessation of activities of third parties in the vicinity of the gas installation that could endanger the operation of the gas installations and equipment. Article 96 of the Gas Law spells out the interdictions to build, to dig trenches, and to deposit materials in the safety area, or to carry out any works that would affect the gas production installation, and the related pipelines and equipment.

Further, article 90 (1) of the Gas Law provides that the statutory easements for gas production are granted for the life of the gas production installation. The statutory easements under discussion are free of charge, according to the provisions of article 90(2) of the Gas Law.

**9** How is access to the natural gas transportation system and storage facilities arranged? How are tolls and tariffs established?

Access to the natural gas transmission system is arranged in accordance with the provisions of EU Regulation No. 1775 of 2005 regarding the conditions of access to gas transmission systems, and with the Regulation regarding Access to the NTS approved by Government Decision No. 1043 of 2004, as amended.

Access to the NTS has three stages:

- the inquiry to the operator of the NTS re the possibility to access the NTS in a specific area;
- the reservation by the respective applicant of capacity within the NTS; and
- the connection to the NTS.

Access to the upstream feeding pipelines is arranged in accordance with the provisions of the Regulation regarding Access to the Upstream Feeding Pipelines, approved by Government Decision No. 2199 of 2004 and is granted by the respective operator of the upstream feeding pipeline.

The rules for the access to the storage facilities are provided by the Regulation approved in this respect by Decision No. 824 of 2004 of the former ANRGN (currently ANRE).

Access is provided based on classes of priority, and according to the rule 'first come, first served', within the same class of priority.

The tariffs for gas transmission services are regulated by ANRE. The provisions currently in effect are those set out by Order No. 72 of 2008 of ANRE. The transmission tariff has two components: one for the reservation of capacity, and the other for gas volumes.

The tariffs for gas storage are provided for each of the three operators of the storage facilities by orders issued by ANRE.

Order No. 776 of 2006 of the Ministry of Economy and Trade provides certain rules regarding the use of gas storage facilities for the balancing of the NTS in crisis situations.

- 10** Can customers, other natural gas suppliers or an authority require a pipeline or storage facilities operator to expand its facilities to accommodate new customers? If so, who bears the costs of interconnection or expansion?

The access to the pipelines and to the storage facilities is carried out in accordance with the regulations mentioned in question 9. There are no specific regulations with regard to expanding the storage facilities.

With regard to the transmission facilities, the operator of the NTS has the obligation to prepare the Annual Plan for the Development of the NTS, which is submitted to ANRE.

There is no specific obligation for the operator of the NTS to expand the NTS at the request of customers.

With regard to connections to NTS, if the works regarding such connections are carried out by the operator of the NTS, such costs will be included in the tariff that will be paid by the customer for obtaining the access.

- 11** Describe any statutory and regulatory requirements applicable to the processing of natural gas to extract liquids and to prepare it for pipeline transportation.

The regulation regarding metering of the natural gas quantities traded in Romania, approved by Order No. 62 of 2008 of ANRE, as amended, provides certain rules regarding the quality of the gas, including minimum quality requirements regarding the gas.

Access to the upstream feeding pipelines, as well as to the NTS, is permitted only if the gas complies with certain quality requirements. To comply with such requirements, dehydration installations are installed between the extraction facilities and the pipelines, so that the gases are prepared for pipeline transmission.

The Technical Code of the Transmission Grid approved by ANRE's Order No. 54 of 2007 also provides requirements regarding gas processing and quality to prepare it for transmission. Such provisions of the Technical Code will enter into force gradually during 2009.

- 12** Describe the contractual regime for transportation and storage.

The domestic natural gas market consists of the competitive segment and the regulated segment.

The regulated segment also includes natural gas transmission and storage activities. ANRE prepared and approved different framework contracts for storage and transmission.

The terms and conditions of such contracts include the delivery and take over of the natural gas, metering, tariffs, invoicing and payment methods, rights and liabilities of the system operator and of the user, contractual responsibilities of the parties, termination clauses, guarantees and transfer of the agreement, to name a few.

### Regulation of natural gas distribution

- 13** What is the ownership and organisational structure for the local distribution of natural gas (transportation from pipeline to consumer)?

According to ANRE, the current structure of the natural gas market includes 34 distribution and gas supply companies, the largest being Distrigaz Sud (a Gaz de France controlled company) and E.ON Gaz Romania, through its distribution subsidiary.

**14** Describe the statutory and regulatory structure and governmental or administrative authorisations required to operate a distribution network. To what extent are gas distribution utilities subject to public service obligations?

Physical gas trading is regulated by the Gas Law, which covers the following activities related to the physical gas market: production, transmission, distribution, supply, and storage of physical gas, as well as design and execution activities related to them. The regulatory authority of the physical gas market in Romania is ANRE. Currently, ANRE is a national interest public authority under the direct coordination of the prime minister, who appoints the president and vice presidents of the said authority.

To perform gas distribution, a distribution licence has to be obtained according to the provisions of article 43 of the Gas Law, object of such licence being natural gas distribution in one or more given areas. The licence is issued by ANRE.

Any decision issued by ANRE regarding the granting of a licence for access to the distribution system may be appealed before the Courts of Appeals, which are competent according to the Gas Law and to the provisions of Law No. 544.

To ensure an adequate level of safety in the gas supply, Law No. 346 of 2007 on Certain Measures for Ensuring Safety in the Gas Supply (Law No. 346) defines the role and responsibilities of gas authorities and domestic operators regarding approving and applying of the required measures in this field. Also, a gas distributor should have qualified personnel with adequate technical skills.

**15** How is access to the natural gas distribution grid organised? Describe any regulation of the prices for distribution services. In which circumstances can a rate or term of service be changed?

To diversify the natural gas supply sources, Emergency Government Ordinance No. 122 of 2007 (Ordinance No. 122) for the amendment of the Gas Law introduces the concept of a transmission system alternative to the existing National Transmission System, through which private investors have the possibility to carry out alternative transmission or transit systems.

According to ANRE the following issues should be mentioned related to the application of the provisions of the Ordinance No. 122:

- the activity of natural gas transmission represents a public service of national interest, according to the provisions of article 21 of the consolidated Gas Law; and
- taking into consideration the provisions of article 79 of the Gas Law, natural gas transmission activity is the object of the award of the concession to Romanian or foreign legal persons, according to the law.

According to article 42 of the Gas Law, end-users or consumers cannot trade the physical gas that they purchase as there is no derivatives market yet.

According to article 100(2) of the Gas Law, natural gas distribution and transmission is included in the regulated segment. For the regulated segment, the prices and tariffs are established by ANRE, based on its own methodologies issued in respect thereof.

**16** May the regulator require a distributor to expand its system to accommodate new customers? May the regulator require the distributor to limit service to existing customers so that new customers can be served?

The distributor may expand its system according to its own annual development plan. There are no specific provisions for expanding the

distribution system upon the request of the regulator. However, the distributor must observe the terms and conditions of the distribution concession agreement, as well as the provisions of the Regulation for access to the Distribution System, approved by Government Decision No. 1043 of 2004.

There are no particular provisions regarding limitation of service to existing customers in favour of new customers.

The regulator may ask the distributor to supply as a priority certain customers in certain crisis situations, such as household consumers, schools and hospitals, according to the provisions of Law No. 346.

**17** Describe the contractual regime in relation to natural gas distribution.

ANRE has approved general conditions for contracting natural gas distribution services and the framework contract for the distribution of natural gas.

The terms and conditions of the framework contract include the delivery/take over of the natural gas, metering, tariffs, invoicing and payment methods, rights and liabilities of the system operator and of the user, contractual responsibilities of the parties and termination clauses, to name a few.

### Regulation of natural gas sales and trading

**18** What is the ownership and organisational structure for the supply and trading of natural gas?

According to ANRE, the current structure of the natural gas market includes 34 distribution and gas supply companies, the largest being Distrigaz Sud (a Gaz de France controlled company) and E.ON Gaz Romania, through its distribution subsidiary and 76 suppliers to the wholesale market.

From the total of 76 suppliers, only six are gas producers, the balance being represented by more or less 'apartment' companies involved in gas trading only.

The National Natural Gas Dispatcher operates within Transgaz, the state-controlled operator of the NTS, and also acts as market operator.

**19** To what extent are natural gas supply and trading activities subject to governmental oversight?

Licence holders, namely holders of supply licences, distribution licences, storage licences, transmission licences, transit licences, and the eligible consumers that have capacity as direct importers must execute and submit a report regarding the quantities and prices of physical gas traded and the services provided, to the Physical Gas Market Department within ANRE, according to a reporting template.

ANRE is entitled to have access to the information and documents related to the activity of the business entities operating in the physical gas sector, including their accounting records.

ANRE is entitled to disclose to the public any data or information, except for commercial data that is declared confidential.

Any operator that holds a licence for an activity within the gas sector must issue annual accounting reports, which they will submit to ANRE for review. Also, the operators on the gas market must provide copies of the gas import contracts to ANRE. At the request of ANRE, they must also provide copies of the transit contracts.

**20** How are physical and financial trades of natural gas typically completed?

The activity of physical gas supply is the commercial activity of the

sale and purchase of natural gas, conducted by a legal person pursuant to a supply licence under the terms of the Gas Law. Gas supply activity is the only activity in the physical gas sector that may be considered a gas trading activity.

According to article 100 of the Gas Law, the domestic gas market consists of the competitive segment and the regulated segment. In the competitive segment the prices are freely formed according to offer and demand, as a result of competition mechanisms.

The regulated segment of the market includes the natural monopoly activities and supply at a regulated price based on the framework contracts. Within the regulated segment of the market, the prices and tariff systems are established by ANRE, based on its own methodologies issued for this purpose.

Currently, there is not a derivatives market in place.

The trading activities on the regulated segment of the market are taking place via the framework contracts issued by ANRE.

- 21** Must wholesale and retail buyers of natural gas purchase a bundled product from a single provider? If not, describe the range of services and products that customers can procure from competing providers.

Please see question 20.

### Regulation of LNG

- 22** What is the ownership and organisational structure for LNG, including liquefaction and export facilities and receiving and regasification facilities?

Currently there are no production, distribution, transmission, storage or utilisation facilities for LNG in Romania. There are plans for the construction of an LNG terminal in Constanta, Romania's biggest port on the Black Sea, as such terminal would help Romania to diversify its energy sources.

- 23** Describe the regulatory framework and any material governmental or administrative authorisations required to build and operate LNG facilities.

Even if currently there are no LNG facilities in Romania, as mentioned above, there is a regulatory framework in place for such activities. According to the provisions of the Gas Law, ANRE is the regulatory authority entitled to issue the general regulatory framework with regard to LNG, and to the technical code of the LNG. ANRE issued the Technical Code regarding the LNG, approved by the ANRE (formerly ANRGN) Decision No. 825 of 2004. According to the Technical Code, ANRE will draft and issue the regulation regarding the permits for the construction, functioning and changes with regard to the LNG facilities, and the licences for LNG storage and supply activities. Such regulation has not been enacted yet.

- 24** Describe any regulation of the prices and terms of service in the LNG sector.

Currently not applicable.

### Mergers and competition

- 25** Which government body may prevent or punish anti-competitive or manipulative practices in the natural gas sector?

The Competition Council is the autonomous administrative body aiming to protect and stimulate competition to ensure a normal competitive environment, with a view towards consumers' interests.

The Competition Council's role has two major dimensions in the

natural gas sector: a corrective dimension – restoring and maintaining a normal competitive environment, and a preventive dimension – monitoring the market and observing the behaviour of the actors participating in such market.

- 26** What substantive standards does that government body apply to determine whether conduct is anti-competitive or manipulative?

Competition Law No. 21/1996 (the Competition Law) provides certain criteria enabling the competent authority to evaluate the anti-competitive or manipulative conduct of a certain player on the natural gas market as referring to abuse of the dominant position, economic concentration and other infringements of the antimonopoly law.

Moreover, the following activities are prohibited by article 98 paragraph 3 of the Gas Law as being considered anti-competitive and manipulative:

- any practices using prices and tariffs systems as social protection instruments or direct or indirect subsidising of the final consumers;
- recovering costs related to services performed for a given category of consumers through the prices or tariffs used for other categories of consumers; and
- limiting or decreasing prices and tariffs based on social or anti-inflation policies considerations; the state shall ensure a certain level of social protection for some categories of consumers by granting subsidies or compensations directly provided, in accordance with the law.

- 27** What authority does the government body have to preclude or remedy anti-competitive or manipulative practices?

The Competition Council has a wide range of powers, some of the most important being the ability to conduct investigations, upon its own initiative or upon a complaint or notification and to issue decisions sanctioning according to the law the violations of the competition law, namely cases of economic concentration or abuse of dominant position.

The Competition Council is also authorised to fine legal entities for certain unfair conduct, file legal actions or initiate other legal procedures for the breaching of the Competition Law.

- 28** Does any government body have authority to approve or disapprove mergers or other changes in control over businesses in the sector or acquisition of production, transportation or distribution assets?

Transfer of control over legal entities in the competitive market is subject to general rules regarding state control over concentration of capital. The concept of economic concentration includes the following categories of operations: mergers, acquisitions and concentrated joint ventures.

Economic concentrations are subject to control and must be notified to the Competition Council if the aggregate turnover of the undertakings involved exceeds the equivalent in Romanian lei of €10 million and there are at least two undertakings involved in the operation, each of them having a turnover exceeding the equivalent in lei of €4 million on Romanian territory.

Economic concentrations carried out through mergers, acquisitions and concentrated joint ventures of two or several undertakings shall be notified by each of the involved parties to the Competition Council.

Within 30 days of receiving a notification of an economic concentration, the Competition Council shall issue a decision for non-intervention, or a non-objection decision, when concluding that there are no serious doubts regarding the compatibility with a normal competitive environment.

### Update and trends

In April 2007, the regulatory authorities for power and gas were united in a single authority, ANRE.

The legal and regulatory framework was updated. The Gas Law was amended to implement the European rules and regulations. The gas market was gradually liberalised, starting in 2001, reaching full liberalisation for non-household consumers on 1 January 2007, and for household consumers, starting from 1 July 2007.

In such context, ANRE issued a Methodology regarding the

change of the supplier by household consumers.

According to ANRE, the development of the gas market within the following years has the objectives of:

- development of the competition on the gas market;
- implementation of new rules regarding the tariffs;
- support for the establishment/rehabilitation of gas perimeters, to increase domestic production; and
- diversification of import sources.

**29** In the purchase of a regulated gas utility, are there any restrictions on the inclusion of the purchase cost in the price of services?

There are no special provisions of this kind in the law.

However, with regard to the regulated segment, the prices and tariffs are established according to the law by the competent authority, ie ANRE. The cost of purchase price may be included in the price of service/product provided that the final price of the service does not exceed the regulated price/tariffs determined by ANRE.

**30** Are there any restrictions on the acquisition of shares in gas utilities? Do any corporate governance regulations or rules regarding the transfer of assets apply to gas utilities?

In Romania the natural gas sector is not subject to state monopoly and there are no rules or legislation providing that the state should own a certain percentage of shares in the natural gas market.

On the contrary, the natural gas sector is undergoing a process of privatisation that is expected to lead to an improvement of the facilities and of the entire gas sector.

### International

**31** Are there any special requirements or limitations on foreign companies acquiring interests in the natural gas sector?

Foreign legal entities acquiring interests in the natural gas sector are not subject to any special requirements or limitation, except for the requirement to establish a branch or a subsidiary in Romania for the entire duration of the validity of the licence necessary for the performance of its activities.

The legal vehicles used by foreign investors for setting up a subsidiary are the limited liability company, and less frequently the joint-stock company.

**32** To what extent is regulatory policy affected by treaties or other multinational agreements?

The regulatory policy of the production, transmission, distribution, supply, and storage of natural gas is drafted in compliance with the EU legislation in force, most of which has already been transposed into national law, and with international agreements entered into by Romania.

**33** What rules apply to cross-border sales or deliveries of natural gas?

Cross-border sales are regulated by the Gas Law. Even if the business is conducted on a cross-border basis, the foreign legal person must establish a subsidiary, and obtain a licence.

### Transactions between affiliates

**34** What restrictions exist on transactions between a natural gas utility and its affiliates?

Romania implemented the provisions of Directive 2003/55/EC, by amending the Gas Law accordingly. Thus, article 101(2) of the Gas Law, as amended, provides for the legal, functional and organisational unbundling of the entities that carry out the activities provided by the Gas Law in the regulated segment of the natural gas market, which includes supply of natural gas at regulated tariffs and based on framework agreements for the consumers, transmission, distribution, storage, and other activities provided by the article 100(2) of the Gas Law. However, the legal unbundling will not trigger a change of control with regard to the vertically integrated undertakings in the gas sector. The accounting unbundling is also applicable.

Distributors with fewer than 100,000 consumers will be excepted from the application of the above-mentioned unbundling provisions. However, such distributors or operators will have to keep internal separation of their accounts with regard to the regulated activities

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in the gas sector.

Also, by Decision No. 620 of 2004 of the former ANRGN, regulatory norms regarding preventing the abuse of a dominant position on the internal gas market were enacted.

**35** Who enforces the affiliate restrictions and what are the sanctions for non-compliance?

ANRE and the Competition Council are the authorities that may apply sanctions for non-compliance. For non-compliance with regard to unbundling, ANRE may apply fines. For repeated non-compliance in this respect, ANRE may apply a fine of 5 per cent of the turnover of the respective operator for the previous year.

The Competition Council, which monitors the gas market from the competition law and regulations perspective, can also apply fines, which will be calculated based on the turnover figures of the non-compliant operator.